

REAUTHORIZATION OF THE COASTAL ZONE MANAGEMENT ACT

HEARING

BEFORE THE

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

MAY 25, 2005

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ONE HUNDRED NINTH CONGRESS

FIRST SESSION

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REAUTHORIZATION OF THE COASTAL ZONE MANAGEMENT ACT

WEDNESDAY, MAY 25, 2005

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 10:05 a.m. in room SR-253, Russell Senate Office Building, Hon. Olympia J. Snowe presiding.

OPENING STATEMENT OF HON. OLYMPIA J. SNOWE, U.S. SENATOR FROM MAINE

Senator SNOWE. The hearing will come to order. First of all, I want to thank Chairman Stevens for allowing me to chair this full Committee hearing today on the very important issue of reauthorizing the Coastal Zone Management Act. I certainly want to express my appreciation to you, Chairman Stevens, for putting this on the Committee's agenda so that it can move forward, and I truly appreciate that.

I look forward to discussing a great challenge facing our Nation's coastal states, and that is the need to balance economic development and environmental protection. Together we can chart a course for better balancing and supporting these efforts through S. 360, the Coastal Zone Enhancement Reauthorization Act of 2005. I am proud to have introduced this legislation, which would strengthen the Act's State-Federal partnerships and funding programs to support our coastal communities. Many of my colleagues have been instrumental in collaborating with me on this particular language.

I recognize the challenges facing our lands that border the oceans and Great Lakes. Even though coastal counties cover only 17 percent of the United States, this area is home to more than 50 percent of the Nation's population. Over 360 ports and 10 of our 15 largest cities are located on the seaboard. Moreover, the population growth rate will continue to climb in these areas as people are attracted by the vibrant mix of recreational amenities and economic opportunities. Over time, however, social and economic demands in these areas will strain coastal infrastructure, alter waterfront access, and increase the flow of pollution into our waters.

But urban areas are not our only concern. Our coasts, a relatively small sliver of our country, also support diverse habitats and ecosystems that are vital to multibillion dollar commercial and recreational fisheries and other natural resources. Healthy fishing industries form the backbone of our coastal towns in many states

across this country, including my home State of Maine, and recreational opportunities along our state's picturesque coastline draw increasing numbers of people, making tourism in our state the largest industry. We must ensure that coastal plans continue to take natural resource conservation into account.

Since 1972 the Coastal Zone Management Act has enabled coastal states to manage and develop their environments and resources in a sound, sustainable manner. However, as noted in the U.S. Commission on Ocean Policy's final report, the increasing pressures facing our coastal regions continue to evolve in scope and complexity. For example, non-point source pollution has become the primary cause of nutrient loading, hypoxia, harmful algal blooms, and environmental toxins in coastal waters. Development and sprawl in the coastal zone compounds this problem and puts additional pressures on habitats and infrastructure.

This hearing today is a critical step toward addressing these growing challenges. Today we will hear about ways to better support local coordination and planning efforts, fund essential new coastal research, and resolve funding disparities that currently exist under this Act. Yet most of the legislation does not need to be amended. The Act has established a remarkably successful State-Federal framework for coastal zone management, and we must ensure it continues to do so.

For instance, 34 states volunteer to participate in the Act's program to develop coastal zone management plans custom-tailored to their individual needs. Once a plan is Federally approved, matching funds are available to help each state implement its plan, and these states are able to review and approve any Federal action off their shores. This consistency requirement fosters much-needed collaboration between local, State, and Federal governments.

My bill would uphold the grant programs and consistency rules of the original Act, but it also seeks to expand funding sources and community planning tools to meet emerging state needs. For example, it would increase the total funding authorization to \$160 million in Fiscal Year 2006 and increase it to \$175 million by 2010. It would also encourage, but not require, states to take additional steps to combat the problem of non-point source pollution and encourage local infrastructure and development planning through a new coastal community program. In Maine, non-point source pollution programs have been credited with reopening hundreds of acres of shellfish beds, a \$16 million industry, and the recovery of fish nursery areas. However, NOAA's funding for non-point programs has declined dramatically, so we must renew our Federal commitment to addressing this national problem. Every coastal state could potentially benefit from the flexibility and funding of these programs.

As we strive to support our states' coastal planning efforts, we must do so equitably. To this end, my bill will fix a problem with the funding structure of the coastal zone management program. Each state's funding level has been determined by a formula based on the length of coastline and population. In 1992 this level was capped at \$2 million in an attempt to ensure equal treatment of states. A growing number of the states have reached this cap in the last 13 years. The result is that the 13 states accounting for 83 per-

cent of our coastline and 76 percent of our coastal population are trapped under this cap.

The coastal management programs of these states are stagnating while their needs are ever-increasing. My colleagues and I are developing language in this bill for removing this cap while assuring that smaller states receive funding at equitable levels.

Finally, as we work to reauthorize the Act, our overarching goals must be to uphold and strengthen the provisions that empower states to control activities affecting their coasts. Each state has a unique social and economic situation, and ultimately each state, not a Federal agency, needs to control the future direction of its coast. There is no better way to assure this is done than through the collaboration and funding frameworks of the Act.

I look forward to hearing from our distinguished panelists today as we work to build on this success. For our first panel I would like to welcome Dr. Thomas Kitsos, Associate Deputy Assistant Administrator of NOAA's National Ocean Service; Dr. Walter Cruickshank, who is the Deputy Director of the Interior Minerals Management Service; and Ms. Sarah Cooksey, who is a board member and former chair of the Coastal States Organization.

On our second panel we will hear from Ms. Sarah Chasis, Director of the Natural Resources Defense Council's Water and Coastal Program; Tom Fry, President of the National Ocean Industries Association; and from Alaska we have Mr. Bill Jeffress, Director of the Office of Program Management and Permitting in the Alaska Department of Natural Resources. Finally, from my home State of Maine, I extend a warm welcome to Dr. Don Hudson, Chair-elect of the Gulf of Maine Council on the Marine Environment.

Chairman Stevens.

**STATEMENT OF HON. TED STEVENS,
U.S. SENATOR FROM ALASKA**

The CHAIRMAN. Thank you very much, Senator Snowe. I am delighted you introduced this bill and happy to work with you on it. I want to make a few points before we start.

The Coastal Zone Management Act has been unauthorized since 1999. Those of us on the Appropriations Committee have kept it funded since that time. I had a conversation with a gentleman from the Department of Commerce who pointed out to me that this and other programs are unfunded, and there are some activities involved in the programs where there are potential penalties that may well be unenforceable unless we have reauthorization of this act and these other acts that have been held up.

This is a very serious thing for us. The four bills we have sent to the floor so far have all been held up because of increased authorizations in the bills. This bill that you have proposed, and I think the proposal is reasonable, will probably face the same problem unless we can get an agreement on how far the authorized levels should be increased by this bill.

The enacted level of these grants has actually varied in the last few years, but they have hovered right around—it started off \$69 million in 2002 and it is down to \$63.9 million in the request for this year and \$66 million was actually provided last year. It shows

that without an authorized level the amount varies from year to year. So I think we must get together on that point.

Second, I note that there is a provision, a sense of Congress, to reevaluate the calculation of shoreline mileage. As I am sure that Mr. Jeffress will point out, the Alaska Department of Natural Resources has recalculated the entire tidal shoreline as defined in this bill, which includes the outer coast, offshore islands, sounds, bays, rivers, creeks to the head of tidewater or to where tidewater is narrowed to the width of 100 feet. In doing so, the new calculation for Alaska's tideline is 44,500 miles, greater than all of the entire continental United States.

Of that amount, less than 1 percent is developed. That is the reason we have asked Mr. Jeffress to come down and testify today concerning what is done in Alaska. We have a unique coastal area and it is obvious that to compare this—to put the same provisions applicable to our coastline of 44,500 miles to the same tests that are provided in the other states—for instance, we have a population of 16 people per mile along the coastline. California's population is 442 times that. There is no question that the population along the coastline should be one of the criteria in considering the application of this act. So we will look forward to this hearing and to the comments that are made by the witnesses.

Thank you very much.

Senator SNOWE. I thank you, Mr. Chairman. I appreciate your comments on the issue of increased authorization levels. I think that is a point well taken, because obviously our first and foremost goal is to pass a reauthorization since that expired in 1999. That is a primary goal, and I appreciate your thoughts on it. We will work together on some of these issues to help give impetus to passing this legislation.

Senator Nelson.

**STATEMENT OF HON. BILL NELSON,
U.S. SENATOR FROM FLORIDA**

Senator NELSON. Madam Chairman, thank you for having this hearing. Each of us Senators comes to the table with an interest to protect regarding our own states. The esteemed Chairman of the Commerce Committee clearly has his interest in the State of Alaska. You and I have our respective interests in two coastal states, yours of Maine, mine of Florida.

I have more coastline in the State of Florida, by the way, than California, and that surprises people—by far. California has something like 800 miles. I have something like 1,500 miles, only exceeded by Senator Stevens' state, which exceeds the coastline of Florida, but not in beaches. In the actual beaches, the State of Florida has a lot more beaches than any other state.

The CHAIRMAN. Now, be careful, because the entire Arctic coast is beach.

[Laughter.]

Senator NELSON. I am talking about the kind of beach where people frolic in the surf.

The CHAIRMAN. My friend, if some people are right about global climate change you better reserve your future, a piece for the future.

[Laughter.]

Senator NELSON. A place like Florida, global climate change, we will not have a state of Florida left; it will be all covered with water.

Well, anyway, the point of all this is that this act has worked well, but it is now under attack. It is not under attack by this committee; it is under attack by the House and it is under attack tomorrow in the Senate Energy Committee. What we have is an attempt to weaken parts of this act, and the effect is to weaken a state's right to have meaningful input into what happens off of its shores.

Even the National Governors Association has taken a strong stand on this. What you have is, Madam Chair, what you and I are going to face increasingly, are the attempts to drill for oil off of the coast. What the House bill has already done is it alters the appeal schedule for consistency appeals to the Secretary of Commerce and gives the Secretary of Interior new powers to grant easements and right of ways for oil and gas exploration outside of the Coastal Zone Management Act process.

Now, tomorrow in the Senate Energy bill that is going to be marked up, what they are going to do is to draw—they are going to have an amendment, and I will identify the Senator who is going to offer it. It is Senator Landrieu. Senator Landrieu is my dear friend and I love her and the feeling is mutual, but on this issue she thinks that a coast is not a coast unless it has oil rigs off the coast.

Of course, we not only have a \$50 billion a year tourism industry that clearly depends on pristine sugary sand beaches, but we also have a fragile environmental situation and, interestingly for Senator Stevens, who is the chairman of Defense Appropriations, we have one of the unique assets in the world and it is called restricted air space. That is why so much of the military training is being done off of Florida's coast. I maintain that you cannot be dropping bombs on simulated targets underneath the restricted air space if you are going to have oil rigs down there.

But anyway, tomorrow the Senate Energy Committee is going to consider an amendment that would allow the Department of Interior to draw lines delineating each state's waters in which they could very possibly start to delineate the waters of Louisiana and Alabama off the coast of Florida. I do not like it and if they do—and I hope we can defeat it—they will severely weaken the State of Florida's ability to have a say in the oil and gas activities off of its coast.

So what I think we need to do is to realize that our coastal resources must be protected within reason and not exploited, and I thank you for the opportunity to share these thoughts.

Senator SNOWE. Thank you very much, Senator Nelson. I appreciate your comments in that regard. Obviously, we have a lot of challenges with the energy legislation being marked up, some of which conflicts with the essence of what the Coastal Zone Management Act is all about.

Dr. Kitsos, welcome.

**STATEMENT OF THOMAS KITSOS, Ph.D., ASSOCIATE DEPUTY
ASSISTANT ADMINISTRATOR, NATIONAL OCEAN SERVICE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
(NOAA)**

Dr. KITSOS. Good morning, Madam Chairwoman. My name is Tom Kitsos. I am with NOAA. I am here representing the position of the Department of Commerce and NOAA on your legislation. I would like to note that last week I had the pleasure of being in your state in Portland for a meeting of the Marine Protected Area Advisory Committee and I had a chance to go to the Portland Fish Auction, which is an experience I think everybody should have, and we certainly understand why coastal zone management (CZM) is so important to your home state.

I would like to thank you for the opportunity to testify on Senate Bill 360 and we appreciate your efforts, Senator Snowe, and the efforts of Senator Stevens and Senator Nelson in support of ocean policy generally and in support of this bill. The Coastal Zone Management Act (CZMA) recognizes and balances national objectives in development and conservation of coastal ocean areas with the historical interest and role of the states in governing near-shore development and land use.

In response to the report of the U.S. Commission on Ocean Policy, the President's U.S. Ocean Action Plan supports reauthorization of the CZMA and outlines many other critical actions to be implemented in cooperation with the coastal states. The national and state coastal management programs and partnerships established by the CZMA provide excellent mechanisms for carrying out many of the commission's recommendations and the President's Ocean Action Plan. State participation in the CZM is voluntary. As you noted, Senator Snowe, 34 of the 35 eligible coastal states are implementing approved programs and the 35th, the State of Illinois, is currently developing a program for approval.

The CZMA's Federal consistency provisions provide states a unique tool to meet their coastal objectives while ensuring a coordinated national approach to coastal management. States have worked closely with applicants to ensure projects are consistent with their enforceable policies. States have concurred with about 95 percent of the projects they have reviewed under these provisions.

NOAA recently completed a series of regional Federal consistency workshops that have helped State and Federal agencies to better collaborate on CZM consistency requirements and improve the efficiency of the process.

The CZMA's National Estuarine Research Reserve System complements the state coastal zone management programs. The 26 Federally designated National Estuarine Research Reserves protect more than one million acres of estuarine lands and waters. The reserves support important research, monitoring, education, and stewardship activities within coastal watersheds in support of coastal management. The reserve systemwide monitoring program includes 104 water quality monitoring stations and 26 weather stations. The system provides important environmental data in support of the Integrated Ocean Observing System called for in the President's U.S. Ocean Action Plan.

Senator Snowe, the CZMA benefits the Nation in many different ways. The reserves provide long-term protection and advance our understanding of sensitive estuarine habitats. In Fiscal Year 2002 and 2003 the reserve system, working through state partners, acquired more than 13,500 acres of valuable habitat for research, education, and stewardship purposes. Coastal states and territories continue to protect and restore coastal waters from the harmful effects of polluted runoff.

Section 306A of the CZMA, the coastal resources improvement program, helps states to support local projects, including providing public access to beaches and waterfronts. In 2002 and 2003, states matched about \$7.5 million in Federal funds to develop 163 access projects in 17 states. The risk of dramatic loss of life and property from storms and other coastal hazards is increasing daily as coastal development and population continues to surge. North Carolina in cooperation with NOAA's Coastal Services Center has developed a geographic information system to help visualize the impacts of flood forecasts, helping citizens better understand the ramifications of impending storm events.

State coastal zone management programs promote more livable communities by providing technical and management assistance to local governments on waterfront revitalization, coastal brownfields cleanup, and restoration of degraded resources.

The Administration supports CZMA reauthorization. Senate Bill 360 proposes new methods for addressing the ever-increasing pressures on the coastal zone. It would allow section 306 funding to be used for coastal non-point pollution control programs and state-specific emerging issues. It creates a new coastal community grants program to help assess and manage growth, public infrastructure, and open space needs. These provisions could provide communities greater flexibility to mitigate population growth, revitalize urban waterfronts and economies, increase public access, reduce coastal hazard threats, and protect important habitats.

In closing, the reauthorization of the CZMA offers an excellent opportunity to renew the Federal commitment to enhancing and restoring America's coastal resources. I look forward, NOAA looks forward, to working with you, Senator Snowe, Senator Stevens, and Senator Nelson, on reauthorizing this important program and at an appropriate time I would be happy to answer any questions.

And I ask that my official statement be included in the record.

Senator SNOWE. Without objection, so ordered; for all of the panelists as well.

Thank you, Dr. Kitsos.

[The prepared statement of Dr. Kitsos follows:]

PREPARED STATEMENT OF THOMAS KITSOS, PH.D., ASSOCIATE DEPUTY ASSISTANT ADMINISTRATOR, NATIONAL OCEAN SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA)

Introduction

Good afternoon, Mr. Chairman and members of the Committee. I am Tom Kitsos, Associate Deputy Assistant Administrator for Ocean Services and Coastal Zone Management for the National Oceanic and Atmospheric Administration (NOAA). Thank you for this opportunity to testify on S. 360, a bill to reauthorize and amend the Coastal Zone Management Act (CZMA). In general, the Administration supports CZMA reauthorization and this legislation. We appreciate the efforts of Senator

Snowe in sponsoring this bill and for supporting this program, which has served as a cornerstone for national coastal policy for more than 30 years.

The Coastal Zone Management Act of 1972 created an innovative intergovernmental program that has been of great benefit to the Nation, the states, and the public. The CZMA recognizes and balances national objectives in development and conservation of coastal and ocean areas with the historical interest and role of the states in governing near shore development and land use. Under Federally approved coastal management programs states are provided incentives and assistance to coordinate their environmental, resource management and development programs and objectives to promote sustainable coastal development and long-term conservation. Under the CZMA's estuarine research reserve program, states—often in partnership with academia and Federal agencies—implement research and education programs to better understand complex coastal processes.

My testimony will focus on the success of the CZMA and the importance of reauthorization of CZMA through S. 360.

The Success of the CZMA

For the past 33 years, the Federal Government, states, and local governments have worked under the unique partnership created by the CZMA to “preserve, protect, develop, and where possible, to restore or enhance the resources of the Nation’s coastal zone for the present and future generations.”

In response to the report of the U.S. Commission on Ocean Policy, the President’s U.S. Ocean Action Plan highlighted the importance of ongoing and renewed efforts to “assist State, Tribal, and local stakeholders to develop comprehensive strategies to protect the Nation’s coastal resources.” The U.S. Ocean Action Plan specifically supports reauthorization of the CZMA and outlines many other critical actions to be implemented in partnership with the coastal states, some in conjunction with state coastal management and estuarine reserve programs. To this end, we are currently working with EPA and the states to conduct a series of community workshops to improve coastal watershed protection, as well as working with the State of Illinois to complete the voluntary state participation in the CZM system.

Coastal estuaries are among the most biologically productive regions in the Nation. The states’ Coastal Management Programs and National Estuarine Research Reserves advance research, best management practices, and the development of infrastructure necessary to better understand and address the complex relationships between people and the coast. This understanding comes not only from CZMA-supported research into the natural functions of our coastal areas, but also into man’s impact upon them, all in an effort to sustain the long-term economic and ecological viability of irreplaceable coastal resources to support an ecosystem approach to management. State programs address a wide range of national objectives, including:

- Maintaining and restoring the natural beach and dune systems for protection from erosion and storms,
- Providing for appropriate coastal development,
- Protecting and restoring ecologically important coastal habitats,
- Controlling nonpoint source pollution,
- Improving public access and recreational opportunities in coastal areas,
- Enhancing public awareness through education and outreach, and
- Revitalizing local waterfronts.

Coastal Zone Management Program

Thirty-four of the thirty-five eligible coastal states, Commonwealths, and Territories are implementing Federally approved coastal management plans. As recommended in the U.S. Ocean Action Plan, NOAA is working with the final eligible coastal state, Illinois, to approve its coastal management program. Through the CZMA, NOAA provides funding for developing and implementing the plans, and provides technical assistance on best practices for addressing important coastal management issues. Funding for the CZM program is allocated to eligible coastal states based on shoreline mileage and coastal population. We appreciate efforts to ensure funding increases can be distributed equitably among all state programs. This funding is required to be matched on a dollar for dollar basis, yet many states far exceed this match requirement and are able to leverage additional state resources using CZMA dollars. For example, the Maine Coastal Program has been successful in matching state dollars to Federal dollars at a ratio of more than 5:1; in past years this ratio has been as high as 11:1.

The CZMA’s Federal consistency provisions provide a unique tool to meet state coastal objectives, while ensuring a coordinated national approach to coastal man-

agement. The consistency provisions apply to Federal agencies, as well as individuals and groups applying for Federal permits and funding. The consistency provisions require any proposed activities that have reasonably foreseeable effects on any land, water use or natural resource of the coastal zone to be consistent with the enforceable components of Federally-approved State Coastal Management Programs. States have concurred with about 95 percent of the projects they have reviewed under these provisions. NOAA recently completed a series of regional Federal consistency workshops that have helped State and Federal agencies to better coordinate and collaborate on CZMA consistency requirements and improve the efficiency of the process.

National Estuary Research Reserve Program

Critical, long-term research takes place at the twenty-six Federally designated National Estuarine Research Reserves (Reserves) in twenty-one coastal states and Commonwealths. Texas currently is pursuing designation of an additional site. Connecticut and Wisconsin have expressed interest in designation of new Reserves. The Reserves play an important role in meeting the U.S. Ocean Action Plan's goal to "expand our scientific knowledge of oceans, coasts and Great Lakes."

Reserves currently protect over one million acres of estuarine lands and waters, and Reserve programs conduct important research, monitoring, education and stewardship activities within coastal watersheds. The Reserve system has developed system-wide efforts and standards to ensure data compatibility and consistent methodologies are used at all sites. The Reserve's System-Wide Monitoring Program includes 104 water-quality monitoring stations and 26 weather stations. The system provides important environmental data in support of the national backbone of the Integrated Ocean Observing System supported in the U.S. Ocean Action Plan. The Reserve system also supports a fellowship program, training up to 52 graduate students each year in estuarine science. This fellowship program not only facilitates important research, but also encourages the development of young scientists to sustain the science workforce to meet the Nation's needs.

Coastal Management and Reserve outreach programs educate thousands of local citizens, teachers, students, and policy-makers on the important connections between people, the land, and the sea, supporting sustainable and ecosystem-based approaches to coastal resource management. The Reserve coastal training program reaches hundreds of coastal decision makers each year, providing them with information to improve management of our fragile coastal resources.

The CZMA Benefits the Nation

State coastal management programs and the network of Reserves enhance the vitality of our coastal economies and the protection and sustainability of important coastal resources and habitats.

Habitat Conservation—The Reserves provide long-term protection and advance our understanding of sensitive estuarine habitats. In FY 2002–2003, the Reserve system, working through state partners, acquired more than 13,500 acres of valuable habitat for research, education and stewardship purposes.

Coastal Nonpoint Source Pollution Control—Coastal states and Territories continue to protect and restore coastal waters from the harmful effects of polluted runoff. Recently, Wisconsin passed the nation's most comprehensive nonpoint source regulations. These rules outline performance standards for various sources of polluted runoff ranging from agriculture to urban stormwater; identify appropriate best management practices for runoff control; and enhance existing cost-sharing programs.

Public Access—Section 306A of the CZMA, the Coastal Resource Improvement Program, is an important mechanism for many states to support local projects, including providing access to beaches and waterfronts. In 2002–2003, states matched about \$7.5 million in Federal funds to develop 163 access projects in 17 states. For example, the Port of Houston Authority, working with the Texas coastal management program, developed the Atkinson Island Interpretive Canoe Trail. The Reserves are also involved in projects to enhance public access. The Grand Bay Reserve in Mississippi is improving and expanding facilities at its two public boat ramps. The Rookery Bay Reserve in Florida has developed public parking, a boat launch and a 2.5-mile boardwalk at Tarpon Bay.

Coastal Hazards—The risk of dramatic loss of life and property from storms and other coastal hazards is increasing daily as coastal development and population continues to surge. Oregon coastal managers developed the Oregon Coastal Atlas to improve and streamline hazard-related decision making related to tsunami inundation and landslides. The Oregon Coastal Management Program is also working with the NOAA Coastal Services Center to develop a coastal erosion forecast tool for the

Atlas. North Carolina, also in cooperation with the NOAA Coastal Services Center, has developed a tool to help visualize flood forecasts. Implemented during Hurricane Isabel, this geographic information system (GIS) helps citizens better understand the likely impacts of impending storm events.

Coastal Community Development—State coastal management programs promote more livable communities by providing technical and management assistance to local governments. The Washington Coastal Management Program and Padilla Bay National Estuarine Research Reserve utilized the Reserve's Coastal Training Program to educate local planners on how development impacts natural shoreline processes. The CZMA also serves as a conduit for delivery of many NOAA products and services that help state and local governments as they prepare and implement plans to revitalize waterfronts, cleanup coastal brownfields, and restore degraded coastal resources.

CZM Performance Measures—NOAA is conducting an on-going effort to develop and evaluate performance measures to better gauge the successes of state coastal management programs and the Reserves. NOAA has developed this performance measurement system over the past four years, in partnership with the states. This information, in combination with the results of periodic programmatic evaluations required by the CZMA, can be used to determine the true state of our coasts and the programs that manage them.

Importance of S. 360

The CZMA has provided numerous benefits to states and to the citizens living, working, and recreating in our coastal communities. Because of its emphasis on cooperation and coordination, the CZMA has enjoyed widespread support from Congress, states, local governments, interest groups, and the public. The Administration supports CZMA reauthorization and appreciates the efforts of Senator Snowe and Senator Kerry, in introducing S. 360.

S. 360 proposes new methods for addressing the ever-increasing pressures on the coastal zone. This legislation would add two new categories to Section 309, Coastal Zone Enhancement Grants. These new categories would allow funding to be used for coastal nonpoint pollution control programs and state-specific emerging issues. Secondly, it proposes a new Coastal Community Grants program to help assess and manage growth, public infrastructure, and open space needs. This program would provide for management-oriented research and technical assistance through the existing state coastal management programs and estuarine reserves. Through amendments such as these, the CZMA could provide communities with greater flexibility to mitigate population growth, revitalize urban waterfronts and water-dependent economies, provide for increased public access, conserve and restore important coastal habitats, and further reduce the threat to lives and property associated with coastal storms.

S. 360 could be strengthened by ensuring Section 17, *Authorization for Appropriations*, is consistent with the President's Budget Request.

Conclusion

In closing, the CZMA is a vital tool for coordinating and integrating local, state and Federal policies and programs affecting the coast and for building a national cooperative effort to protect resources, provide access and mitigate risk, while supporting coastal-dependent development. The reauthorization of the CZMA offers an excellent opportunity to renew the Federal commitment to enhancing and restoring America's coastal resources. The amendments offered in S. 360 would improve an already effective partnership between the Federal Government, the state coastal management programs, and National Estuarine Research Reserves. The proposed Coastal Communities Program would help encourage new and innovative methods for addressing many of the problems faced by the coastal states and communities. Thank you for the opportunity to appear before you today. I look forward to working with you on reauthorizing this important program.

I will be glad to answer any questions.

Senator SNOWE. Dr. Cruickshank.

STATEMENT OF DR. WALTER D. CRUICKSHANK, DEPUTY DIRECTOR, MINERALS MANAGEMENT SERVICE, DEPARTMENT OF THE INTERIOR

Dr. CRUICKSHANK. Good morning, Madam Chairwoman and Members of the Committee. Thank you for the opportunity to tes-

tify on the Coastal Zone Management Act (CZMA) and its relationship to the Department of the Interior's outer continental shelf program. The Department of the Interior and the Department of Commerce have worked diligently to communicate and comprehend each other's concerns over the Federal consistency program and how the existing Federal regulatory regime manages offshore and coastal activities. Secretary Norton places special significance on the requirement that all OCS program decisions carefully evaluate and be responsive to the laws, goals, and policies of affected states.

As my colleague from NOAA has indicated, the Administration supports reauthorization of the Coastal Zone Management Act, and I defer to his testimony for specific comments on S. 360.

I will discuss the Minerals Management Service's role in the management and stewardship of Federal offshore lands and the importance of the Coastal Zone Management Act and the continued success of the Nation's energy and mineral development program on the OCS. The Federal offshore plays a vital role in our Nation's energy future. Energy use sustains our economy and our quality of life. But high prices and increasing dependence on foreign sources raise important national policy issues.

The OCS is a major supplier of oil and natural gas for the domestic market, contributing more oil and natural gas to the U.S. economy than any single state or country in the world. Currently the OCS accounts for over 30 percent of the oil produced in this country and 23 percent of our natural gas. Within the next 5 years, offshore production will likely account for more than 40 percent and 26 percent respectively of those two commodities, primarily owing to deep water discoveries in the Gulf of Mexico.

As the Department of Interior's offshore resource management agency, the MMS has a focused and well established mandate, to balance the exploration and development of oil, gas, and mineral resources of the OCS with environmental protection and safety. MMS has worked diligently to create a framework for overseeing OCS activities. Our management principles include conservation of resources by providing for their most efficient use, assurance of a fair and equitable return to the public, protection of the human, marine, and coastal environments, involvement of interested and affected parties in planning and decisionmaking, and minimizing conflicts between mineral activities and other uses of the OCS.

The U.S. Commission on Ocean Policy in its report said that "the scope and comprehensiveness of the OCS oil and gas program can be a model for the management of a wide variety of offshore activities."

In his national energy policy, the President directed the Secretaries of Interior and Commerce to determine if changes to the regulatory regime were needed to promote energy-related projects in the coastal zone and on the OCS. As a result of our joint effort, in June 2003 NOAA published a proposed rule to address energy-related consistency issues. The proposed rule would establish a straightforward consistency review process with clear information requirements and predictable review and decision time frames, eliminate conflicts between the existing CZMA rules and the requirements of the OCS Lands Act, and maintain the states' ability

to review Federal actions which have reasonably foreseeable effects on land, water, and natural resources of the coastal zone.

In addition, MMS has taken proactive steps to enhance the integration of CZMA with our offshore program. A particular example is in our Gulf of Mexico region, where we have been working to improve our coordination with all of the Gulf States. We have streamlined the lease sale consistency review process through an approach agreed to by all of the states. We have entered agreements with each of the Gulf States on specific information that would satisfy state consistency requirements. And we have an expedited consistency review process for about three-quarters of all Gulf plans through the use of concurrence agreements, again with each of the Gulf States.

In addition, we have a very good working relationship with Alaska's Office of Program Management and Permitting and we look forward to contributing to their efforts as they proceed with their coastal zone management program.

In conclusion, I would like to note that both OCSLA and the Coastal Zone Management Act explicitly provide states a critical role in shaping national policy regarding the development of OCS resources for the Nation's benefit. In its declaration of policy for the OCS, Congress said that states and affected local governments are entitled to an opportunity to participate in the policy and planning decisions made by the Federal Government related to the exploration for and development of minerals on the OCS. The Department of Interior and the Minerals Management Service are firmly committed to the consultative responsibility that this entails.

This concludes my remarks and I would be pleased to answer any questions from members of the Committee.

[The prepared statement of Dr. Cruickshank follows:]

PREPARED STATEMENT OF DR. WALTER D. CRUICKSHANK, DEPUTY DIRECTOR,
MINERALS MANAGEMENT SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Committee, it is a great pleasure for me to be here to discuss the reauthorization of the Coastal Zone Management Act (CZMA) in the context of the Department of the Interior's Outer Continental Shelf (OCS) Program. The partnership forged between the Department of the Interior and the Department of Commerce on coastal zone management is consistent with the Secretary's Four C's—"communication, consultation, and cooperation, all in the service of conservation." Over the past several years, the Department of the Interior and the Department of Commerce have worked diligently on communicating and comprehending each others' concerns over Federal consistency and how the existing Federal regulatory regime manages offshore and coastal activities. We have consulted cooperatively and produced a mutually-agreeable proposal that addresses our Nation's needs for siting energy facilities that affect the coastal zone while balancing conservation, protection, and beneficial use of our invaluable coastal resources. In addition, Secretary Norton has placed special significance on the requirement that all OCS program decisions must carefully evaluate and be responsive to the laws, goals, and policies of the affected states.

The Administration supports the reauthorization of the Coastal Zone Management Act. This hearing is looking at S. 360, the Coastal Zone Enhancement Reauthorization Act of 2005, which I defer to my esteemed colleague from NOAA to present the Administration's comments on the bill.

Today I am here to discuss the Minerals Management Service's (MMS) role in the management and stewardship of Federal offshore lands and the importance of the CZMA in the continued success of the Nation's energy and mineral development program in the Federal OCS. We recognize that other agencies issue authorizations for the construction and operation of energy-related facilities (such as natural gas pipelines and liquefied natural gas terminals) which are subject to CZMA; my testimony

will not address the roles of those agencies. The Federal offshore plays a vital role with respect to our Nation's energy future.

America faces an energy challenge. Energy use sustains our economy and our quality of life, but high prices and increasing dependence on foreign energy supplies raise important national policy issues. There is no one single or short term solution. Achieving the goal of secure, affordable and environmentally sound energy will require diligent, concerted efforts on many fronts on both the supply and demand sides of the energy equation.

President Bush's National Energy Policy (NEP) report laid out a comprehensive, long-term energy strategy for securing America's energy future. That strategy recognizes that to reduce our rising dependence on foreign energy supplies, we must increase domestic production, while pursuing energy conservation and the use of alternative and renewable energy sources.

The OCS Lands Act directs the Secretary of the Interior to make resources available to meet the nation's energy needs. The accompanying Congressional Declaration of Policy states, "*The OCS is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development.*" As the Department of the Interior's offshore resource management agency, the MMS has a focused and well established ocean mandate—to balance the exploration and development of oil, gas, and mineral resources of the OCS with safety and protection of the marine and coastal environment.

The Federal OCS is a major supplier of oil and natural gas for the domestic market, contributing more oil and natural gas for U.S. consumption than any single state or country in the world. As steward of the mineral resources on the 1.76 billion acres of the Nation's OCS, MMS has, since 1982, managed OCS production of 9.6 trillion barrels of oil and more than 109 trillion cubic feet of natural gas for U.S. consumption.

Today, MMS administers approximately 8,200 leases and oversees approximately 4,000 facilities on the OCS. OCS production accounts for over 30 percent of the Nation's domestic oil production and approximately 23 percent of our domestic natural gas production. Within the next 5 years, offshore production will likely account for more than 40 percent of oil and 26 percent of U.S. natural gas production, owing primarily to deep water discoveries.

As the OCS resource management agency, MMS has worked diligently for over 20 years to create a framework for OCS mineral resource development. Principles guiding our management of the resources of the OCS include: conservation of resources by providing for their most efficient use; assurance of a fair and equitable return to the public for rights conveyed; protection of the human, marine, and coastal environments; involvement of interested and affected parties in planning and decision-making; and minimization of conflicts between mineral activities and other uses of the OCS. MMS also has over two decades of experience working with coastal states regarding coastal zone issues related to development on the OCS. The U.S. Commission on Ocean Policy in its report, "An Ocean Blueprint for the 21st Century," stated, "the scope and comprehensiveness of the OCS oil and gas program can be a model for the management of a wide variety of offshore activities."

In the NEP, the President directed the Secretaries of the Interior and Commerce to determine if changes to the Federal regulatory regime were needed to facilitate energy-related projects in the coastal zone and on the OCS. Secretary Norton and then-Secretary Evans convened a "Coastal Zone Management Act Team" to develop a proposed rule addressing questions raised in NOAA's July 2002 Advanced Notice of Proposed Rulemaking (ANPR), and to establish an effective partnership for consistency issues. I am pleased to report that this effort has led to a much improved proposed rule.

Using the July 2002 ANPR as the starting point, the team engaged in an intensive effort to fulfill the Secretaries' goals in a manner that reflected the interests and concerns of our various stakeholders. As a result of our joint effort, in June 2003, NOAA published a proposed rule that better addressed energy-related consistency issues while ensuring protection of the Nation's coastal resources. The proposal would:

- Establish a straightforward consistency review process with clear information requirements.
- Provide a predictable consistency review process so that states, Federal agencies, and applicants know which activities are covered, when consistency reviews will begin, and when decisions will be made.
- Clarify what information is required for consistency review purposes.
- Eliminate conflict and confusion between the statutory requirements of the CZMA and OCS Lands Act, and most importantly,

- Maintain the states' ability to review those Federal actions which have reasonably foreseeable effects on any land, water use or natural resources of their coastal zone as provided for in the CZMA.

When promulgated as a final rule, the changes will improve the effectiveness of the Federal consistency process while preserving the proper balance between state and Federal management of coastal resources.

We have also been working with NOAA to achieve prompt and efficient consultations under the Endangered Species Act and rulemakings under the Marine Mammal Protection Act.

Now I'd like to talk about other proactive steps MMS is taking to ensure integration of CZMA into our offshore management program.

The MMS has developed a CZM strategy in the Gulf of Mexico with the primary goals of:

- Providing a more efficient process for state consistency review of MMS OCS lease sale and permitted activities.
- Standardizing information required of industry based on actual authorized CZMA requirements.
- Managing the CZM Federal consistency review timeframes more effectively.
- Improving MMS/Gulf State relationships.

I am happy to say this initiative has been extremely successful. We have:

- Streamlined the lease sale consistency review process through a tiered Consistency Determination document approach agreed to by all Gulf States.
- Written agreements with all Gulf States on specific information that would satisfy state consistency requirements, thereby eliminating the need for an additional 30-day time frame allowed under the January 2001 regulations for the states' decision on adequate information to begin consistency review.
- Eliminated broad descriptive information previously required in industry submittals.
- Standardized and updated information required by industry via several Notices to Lessees and Operators.
- Expedited consistency review of 75 to 80 percent of all Gulf plans submitted through the use of concurrence agreements with the Gulf States.
- Significantly improved MMS/Gulf State Coordination.

Alaska is in the process of revising its CZM plan. In Alaska, there is an interest in subsistence fishing and hunting, which is the cultural heart and soul of rural Alaska. The need to protect fish and wildlife and their use for future generations is important in Alaska, as is the desire to encourage wise, sustainable development.

Alaska has an outstanding record of balancing these competing interests. For MMS, the issue here will be OCS leasing off the northern coast of Alaska and ensuring that subsistence resources remain at levels adequate to meet community needs. The MMS and Alaska's coordinating agency, the Office of Permitting and Project Management (OPMP), enjoy an excellent working relationship. Alaska is presently reworking its CZM program and MMS is ready to contribute as they progress in their efforts.

Conclusion

OCSLA and CZMA explicitly provide states a critical role in shaping national policy regarding the development of OCS resources for the Nation's benefit. The Congressional Declaration of Policy for OCSLA prescribes, "States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to the exploration for, and development and production of, minerals of the OCS." The Department is firmly committed to the consultative responsibility this entails.

Building on our successful partnership, the Department of the Interior and the Department of Commerce will continue to work together to identify and resolve issues that could arise in the administration of both the CZMA and OCSLA to promote Congress' objectives in both statutes and the objectives of the President's National Energy Policy.

Mr. Chairman, this concludes my prepared remarks however I would be pleased to answer questions from you or the Members of the Committee.

Senator SNOWE. Thank you, Dr. Cruickshank.

Ms. Cooksey.

**STATEMENT OF SARAH W. COOKSEY, ADMINISTRATOR,
DELAWARE COASTAL PROGRAMS; BOARD MEMBER AND
FORMER CHAIR, COASTAL STATES ORGANIZATION**

Ms. COOKSEY. Good morning. Thank you, Chairman Stevens and Subcommittee Chairman Snowe and other Subcommittee Members, for the opportunity to testify. For the record, I have also attached a copy of the National Governors Association policy which calls for the reauthorization of CZMA.

The benefits and challenges of coastal and ocean management are well documented in the Ocean Commission and other reports. So rather than reiterating them, I will focus specifically on Senate Bill 360, which recommends reauthorization. Additional details are included in my written remarks.

As previous witnesses have described, CZMA is unique in linking Federal, state, and community-based coastal management efforts. It furthers national goals by supporting and identifying economic and environmental priorities and implementing local strategies. The testimony of Don Hudson from the Gulf of Maine is just one of the 34 state and territory coastal management success stories that could be told today if time allowed.

Both the final report of the U.S. Ocean Commission and the President's U.S. Ocean Action Plan identified reauthorization of CZMA as a priority. The Ocean Commission specifically recommends the following to be included. Senate Bill 360 addresses most of these:

Strengthening the planning and coordination capability of coastal states to address coastal, watershed, and ocean planning;

Increased Federal financial, technical, and institutional support for sustainable coastal and community development;

Expand investment in the conservation and restoration of coastal habitats and support regional ecosystem management and improved science, resource assessment, and information to support decisionmaking based on science from coastal watersheds and oceans.

Governor Ruth Ann Minner from Delaware, as well as many other Governors, specifically included a request for CZMA reauthorization in their recommendations to the Ocean Commission. I have and I would like to submit into the record Governor and State letters from the States of Texas, South Carolina, Alabama, Virginia, and California that also recommend reauthorization.

Senator SNOWE. Without objection, so ordered.

[The information referred to follows:]

STATE OF TEXAS GENERAL LAND OFFICE,
Austin, TX, May 18, 2005

Hon. OLYMPIA J. SNOWE,
Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Dear Senator Snowe:

On behalf of the State of Texas, I urge the Senate to reauthorize the Coastal Zone Management Act (CZMA). I support the recommendations of the President's *U.S. Ocean Action Plan* and the *U.S. Commission on Ocean Policy's Final Report* that call for the reauthorization of the CZMA and highlighted its importance in ensuring economically vibrant and ecologically sustainable coastal and ocean resources.

Texas has the third longest coastline in the Nation, covering 18 coastal counties and including 400 miles of Gulf beaches and 3,300 miles of bay shoreline. With this coastline, as well as millions of acres of submerged land in our coastal bays, the management of our waterways and coastal resources is critical. We face significant challenges along our coast that can have a negative impact on both the health and economic well being of this state and its citizens.

Texas CZMA funds are crucial in addressing shoreline access, economic development of coastal areas, protection of wetlands, and reduction of pollutants carried into coastal waters from our rapidly expanding coastal urban areas.

I understand that the Senate Commerce, Science, and Transportation Committee will begin consideration of CZMA reauthorization during a hearing on S. 360 (sponsored by Senators Olympia Snowe and John Kerry) that is scheduled for Wednesday, May 25.

The following issues are of primary importance when considering reauthorization of the CZMA:

1. Increase support for state and territorial coastal zone management programs through administration and implementation of grant programs and tools. These grant programs are critical to meeting the increased challenges along the Texas coast. The authorization of the Coastal Resource Improvement Program, under Section 306A, and Coastal Zone Enhancement Grants, under Section 309, are important to providing much needed assistance to local communities.

2. Authorize a Coastal Community Restoration Program. By providing incentives to local government for actions that resolve important habitat protection conflicts, revitalize previously developed areas and coordinate conservation efforts Congress will enable state and local governments to better manage our nationally important coastal zones.

3. Maintain existing Federal consistency provisions. The Federal-state partnership established under the CZMA enables state review of Federal activities to ensure compliance with state plans. In Texas, Federal consistency has not limited reasonable activities and development of resources in the coastal zone. I would oppose any actions to weaken the CZMA requirements for coordination and consistency with state plans.

I would like to work with you in the coming months on any necessary changes to S. 360 and to ensure its passage during this 109th Session of Congress. Thank you for taking up this important matter at this time.

Sincerely,

JERRY PATTERSON,
Commissioner.

STATE OF SOUTH CAROLINA OFFICE OF THE GOVERNOR
Columbia, SC, May 18, 2005

Hon. TED STEVENS,
Chairman,

Hon. DANIEL K. INOUE,
Ranking Member,

Hon. OLYMPIA J. SNOWE,

Hon. MARIA CANTWELL,

Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Dear Senators,

I would like to express my support for S. 360, the Coastal Zone Enhancement Reauthorization Act of 2005. We face significant challenges along our coast in terms of encouraging economic development while reconciling growth pressures with the unique natural value of our coast. Improved coastal management, as is proposed in S. 360, would greatly increase our capacity to address these critical coastal issues.

In my June 4, 2004 letter to the U.S. Commission on Ocean Policy commenting on their *Preliminary Report*, one of the key recommendations I supported was reauthorization of the Coastal Zone Management Act. With the release of the final report last fall, Congress now has the opportunity to act on priority recommendations of the Commission, and I believe passage of S. 360 would be a significant step toward realizing these priorities.

The following two issues are of primary importance to South Carolina when considering reauthorization of the Coastal Zone Management Act (CZMA):

1. Maintenance of state's rights:

The existing Federal consistency provisions should be retained in their current form. The Federal-state partnership established under the CZMA enables state review of Federal activities to ensure compliance with state plans. In our state, Federal consistency has not limited reasonable activities and development of resources in the coastal zone. Provisions in previous energy legislation have had the potential to erode this important mechanism for considering state concerns. I would urge you to oppose any effort to weaken the CZMA requirements for coordination and consistency with state plans.

2. Assistance for Coastal Communities:

One of the most critical sections of S. 360 from South Carolina's perspective is Section 11, Coastal Community Program. We have several initiatives underway that this legislation will complement, resulting in improved conservation, infrastructure planning, growth and development along our coast. By providing incentives to local government for actions that resolve important habitat protection conflicts, revitalize previously developed areas and coordinate conservation efforts, Congress will enable state and local governments to better manage our nationally important coastal zones.

Thank you for your consideration.

Sincerely,

MARK SANFORD,
Governor.

cc: Hon. Lindsey Graham and Hon. Jim DeMint

STATE OF ALABAMA OFFICE OF THE GOVERNOR
Montgomery, AL, May 20, 2005

Hon. RICHARD SHELBY,
110 Hart Senate Building,
Hon. JEFF SESSIONS,
335 Russell Senate Building,
Washington, DC.

RE: REAUTHORIZATION OF THE COASTAL ZONE MANAGEMENT ACT

Dear Senators:

On behalf of the State of Alabama this year, I am writing to urge the Senate to reauthorize the Coastal Zone Management Act (CZMA). Both the President's U.S. Ocean Action Plan and the U.S. Commission on Ocean Policy's Final Report recommended the reauthorization of the CZMA and highlighted its importance in insuring economically vibrant and ecologically sustainable coastal and ocean resources. We encourage Congress to reauthorize and amend CZMA as a critical, high priority action for improved coastal and ocean management. We support full funding and strengthening of elements of the CZMA, including habitat restoration, community planning and programs, watershed management and special area management planning. The CZMA is an important vehicle for implementation of a wide range of Ocean Commission and U.S. Ocean Action Plan recommendations, because it takes an integrated approach and is a true cooperative program between the Federal, state and local governments. This partnership is vital to addressing ecosystem management, and we believe that the state and local governments should have an important role in this process. A reauthorized CZMA needs to retain its focus on partnerships—the state's working hand-in-hand with local governments. CZMA needs to maintain the state's ability to implement programs that meet Federal goals that best fit each state's ecological, geographical and political sceneries. A reauthorized CZMA needs to allow for flexible state programs and provide for a program to encourage strong planning at the local government level. We support an incentive-based approach to expanding partnerships under the CZMA and increasing focus on watershed issues and local planning.

We face significant challenges along our coast that can have a negative impact on both the health and economic well being of this state and our citizens. In Alabama, CZMA funds, which are matched by the state agencies, local governments and academic institutions, are used to address the following priority issues: Coastal non-point source pollution, beach monitoring and restoration, research and education, public access, habitat restoration and land acquisition programs. I understand that the Senate Commerce, Science, and Transportation Committee will begin consideration of CZMA reauthorization during a hearing on S. 360 (sponsored by

Senators Olympia Snowe and John Kerry) that is scheduled for Wednesday, May 25, 2005.

The following issues are of primary importance when considering reauthorization of the CZMA:

1. Increase support for state and territorial coastal zone management programs through administration and implementation grant programs and tools. These grant programs are critical to meeting the increased challenges along Alabama's coast. The authorization of the Coastal Resource Improvement Program, under Section 306A, and Coastal Zone enhancement Grants, under Section 309, is important to providing much needed assistance to local communities for local beach and dune monitoring, enforcement and planning programs.
2. Authorize a Coastal Community Restoration Program. By providing incentives to local government for actions that resolve important habitat protection conflicts, revitalizing previously developed areas and coordinating conservation efforts, Congress will enable state and local governments to better manage our nationally important coastal zones.
3. Maintain existing Federal consistency provisions. The Federal-state partnership established under the CZMA enables state review of Federal activities to ensure compliance with state plans. In Alabama, Federal consistency has not limited reasonable activities and development of resources in the coastal zone, including the development of offshore gas production. I would oppose any actions to weaken the CZMA requirements for coordination and consistency with state plans.

I would like to work with you in the coming months on any necessary changes to S. 360 and to ensure its passage during this 109th Session of Congress. Thank you for taking up this important matter at this time.

Sincerely,

BOB RILEY,
Governor.

cc: Congressman Jo Bonner and Senate Commerce Committee Staff

COMMONWEALTH OF VIRGINIA OFFICE OF THE GOVERNOR
Richmond, VA, May 23, 2005

Hon. TED STEVENS,
Chairman,
Hon. DANIEL K. INOUE,
Ranking Member,
Hon. OLYMPIA J. SNOWE,
Hon. MARIA CANTWELL,
Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Dear Senators,

I am writing to urge the Senate to reauthorize the Coastal Zone Management Act (CZMA). Both the President's *U.S. Ocean Action Plan* and the *U.S. Commission on Ocean Policy's Final Report* recommended the reauthorization of the CZMA and highlighted its importance in ensuring economically vibrant and ecologically sustainable coastal and ocean resources.

We face significant challenges along our coast that may have a negative impact on both the health and economic well-being of this state and our citizens. In Virginia, CZMA funds, which are matched by the state, are used to address critically important coastal issues such as wetlands protection, sea grass and oyster reef restoration, ecotourism development, technical assistance to local governments, coastal land acquisition, nonpoint source pollution solution, and provision of maps of coastal resources and information through the Internet and other media. I understand that the Senate Commerce, Science, and Transportation Committee will begin consideration of CZMA reauthorization during a hearing on S. 360 (sponsored by Senators Olympia Snowe and John Kerry) that is scheduled for May 25.

The following issues are of primary importance when considering reauthorization of the CZMA:

1. Increase support for state and territorial coastal zone management programs through management and implementation of grant programs and tools. These grant programs are critical to meeting the increasing challenges along Virginia's coast. Virginia's coastal population is growing (63 percent of Virginians live on the 22 per-

cent of land that comprises our coastal zone), yet our Federal funding for CZM has decreased. Exacerbating the problem is the fact that even prior to the FY 2005 CZM cuts, funding had been level since about 1988. In the face of only mild inflation, this has translated to the equivalent of roughly a 70 percent cut in Federal funds. In other words Virginia's FY 2005 award of approximately \$2.7 million is worth about \$635,000 in 1988 dollars; at that time Virginia was receiving about \$2 million. While the growth of the Federal budget has outpaced the rate of inflation, almost none of those increased expenditures have been allocated for CZM appropriations.

The authorization of the Coastal Resource Improvement Program, under Section 306A, and Coastal Zone Enhancement Grants, under Section 309, is important to providing much needed assistance to local communities. In Virginia these funds have helped in the acquisition of the most sensitive coastal areas (Virginia has only been able to set aside about \$200,000 per year for this purpose, and far more is needed); in building boardwalks, nature trails and other public access amenities critical to supporting Virginia's growing ecotourism industry; and for the development of new policies to protect special areas such as the biologically diverse southern watersheds of Virginia Beach, Chesapeake and the Middle Peninsula's Dragon Run. Section 309 is also funding the development of an integrated Blue-Green Infrastructure Internet Mapping System which will allow anyone to access, via the Internet, maps of the various important coastal resources on the land and in the water so that planning and decision-making can be better conducted with full and accurate information.

2. Authorize a Coastal Community Restoration Program. By providing incentives to local government for actions that resolve important habitat protection conflicts, revitalize previously developed areas, assess and manage growth and coordinate conservation efforts, Congress will enable state and local governments to better manage our nationally important coastal zones. In Virginia, controlling growth and development is largely within our local governments' purview. Many of Virginia's coastal counties are rural and lack the funds to hire full-time planners and zoning administrators, yet they are facing unprecedented demands for more housing and development, particularly on the fragile waterfront. Carefully planning and carrying out growth in our coastal zones is critical to the long-term protection of our ocean and coastal resources.

3. Maintain existing Federal consistency provisions. The Federal-state partnership established under the CZMA enables state review of Federal activities to ensure compliance with state plans. In Virginia Federal consistency has not limited reasonable activities and development of resources in the coastal zone. I would oppose any actions to weaken the CZMA requirements for coordination and consistency with state plans. Federal consistency provisions have minimized negative environmental consequences of projects while still allowing appropriate development to proceed.

I would like to work with you in the coming months on any necessary changes to S. 360 and to ensure its passage during this 109th Session of Congress. Thank you for addressing this important matter.

Sincerely,

MARK. R. WARNER,
Governor.

cc: Virginia Congressional Delegation

STATE OF CALIFORNIA RESOURCES AGENCY
Sacramento, CA, May 24, 2005

Hon. TED STEVENS,
Chairman,

Hon. DANIEL K. INOUE,
Ranking Member,

Hon. OLYMPIA J. SNOWE,

Hon. MARIA CANTWELL,

Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Dear Senators,

I am writing to express our support for S. 360, the Coastal Zone Enhancement Reauthorization Act of 2005. California, like many other states, faces significant challenges in encouraging economic development in its coastal communities while coping with the resultant growth. If enacted, the provisions of S. 360 would greatly increase the ability of California's three Coastal Zone Management agencies to tackle these challenges. The Coastal Zone Management Act (CZMA) of 1972 provides

grant funds to states that are matched, and used to leverage significant additional investment. These funds are critical to support community efforts to manage coastal resources and to abate nonpoint source pollution. The health and prosperity of our coastal communities depends on continued investment in our nation's coastal legacy for future generations.

Both the President's U.S. Ocean Action Plan and the U.S. Commission on Ocean Policy's Final Report recommended the reauthorization of the CZMA and highlighted its importance in protecting and managing this nation's coastal and ocean resources. In his June 3, 2004 letter to the U.S. Commission on Ocean Policy and in his Ocean Action Plan, Governor Schwarzenegger supported the reauthorization of the CZMA to strengthen provisions for addressing nonpoint source pollution and to maintain the Federal consistency provisions that allow California to address the adverse impacts of Federally approved activities such as oil and gas development off our coast.

The following two issues are of primary importance when considering reauthorization of the CZMA:

Maintain existing Federal consistency provisions. The landmark Federal CZMA is the only land and water use planning and management law at the national level. It represents a unique and carefully crafted partnership between coastal states and the Federal Government. Through this partnership, the CZMA has also, for the first time, given local coastal government a meaningful voice in Federal actions and decisions that directly affect the environmental quality of their local communities. We oppose any change to the consistency rules that would weaken states' rights to have an equal voice in vital decision-making dealing with activities that can have significant adverse effects on local coastal communities and other coastal resources.

Provide Sufficient Funding for Coastal Non-Point Source Pollution Programs. The U.S. Commission on Ocean Policy and the Pew Ocean Commission reported polluted runoff as the top threat to our nation's coastal and ocean resources. In addition, the U.S. EPA has identified runoff from impervious surfaces as the number one threat to the Nation's water quality. Congress should adequately fund nonpoint source pollution grants (CZMA Section 6217) to allow coastal states to address one of the most significant sources of pollution to the Nation's coastal waters.

We would like to work with you in the coming months on any necessary changes to S. 360 and to ensure its passage during this 109th Congress. Thank you for taking up this important matter at this time.

Sincerely,

MIKE CHRISMAN,
California Secretary for Resources.

cc. Meg Caldwell, Chair, California Coastal Commission

THE COMMONWEALTH OF MASSACHUSETTS STATE HOUSE
Boston, MA, May 20, 2005

Hon. OLYMPIA J. SNOWE,
Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Dear Senator Snowe:

On behalf of the Commonwealth of Massachusetts, I am writing to urge the Senate to reauthorize the Coastal Zone Management Act (CZMA). Both the President's *U.S. Ocean Action Plan* and the *U.S. Commission on Ocean Policy's Final Report* recommended the reauthorization of the CZMA and highlighted its importance in ensuring economically vibrant and ecologically sustainable coastal and ocean resources.

We face significant challenges along our coast that can have a negative impact on both the health and economic well-being of this state and our citizens. Here in Massachusetts, CZMA funds, which are matched by the state, are used to address the following priority issues: ocean resource management, smart growth for coastal communities, beach protection, and wetland restoration. I understand that the Senate Commerce, Science, and Transportation Committee will begin consideration of CZMA reauthorization during a hearing on S. 360 (sponsored by Senators Olympia Snowe and John Kerry) that is scheduled for Wednesday, May 25, 2005.

The following issues are of primary importance when considering reauthorization of the CZMA:

1. Increase support for state and territorial coastal zone management programs through administration and implementation grant programs and tools. These grant programs are critical to meeting the increased challenges along Massachusetts' coast. The Coastal Zone Management regional staff provide technical assistance on complex scientific and regulatory issues that is critical to local decision-making under our strong home-rule traditions. The authorization of the Coastal Resource Improvement Program, under Section 306A, and Coastal Zone Enhancement Grants, under Section 309, are important to providing much needed assistance to coastal areas. The flexibility in this voluntary program allowed Massachusetts to use Federal funds to initiate the Ocean Management Task Force process in response to the increase in offshore ocean projects like Cape Wind and the Hubline gas pipeline.

2. Authorize a Coastal Community Restoration Program. By providing incentives to local government for actions that resolve important habitat protection conflicts, revitalize previously developed areas and coordinate conservation efforts Congress will enable state and local governments to better manage our nationally important coastal zones. CZM's efforts at coastal smart growth are a step in the right direction, but much more capacity is needed at the local level to deal with sprawl and its impacts on water quality, beach access, and coastal habitat protection.

3. Maintain existing Federal consistency provisions. The Federal-state partnership established under the CZMA enables state review of Federal activities to ensure compliance with state plans. In Massachusetts, Federal consistency has not limited reasonable activities and development of resources in the coastal zone. I would oppose any actions to weaken the CZMA requirements for coordination and consistency with state plans. The unique and critical role of Federal consistency review for projects just offshore the Commonwealth has been highlighted by the Cape Wind wind farm, Northeast Gateway and the Neptune Liquid Natural Gas proposals.

I would like to work with you in the coming months on any necessary changes to S. 360 and to ensure its passage during this 109th Session of Congress. Thank you for taking up this important matter at this time.

Sincerely,

MITT ROMNEY,
Governor.

STATE OF MAINE OFFICE OF THE GOVERNOR
Augusta, ME, May 23, 2005

Hon. TED STEVENS,
Chairman,

Hon. DANIEL K. INOUE,
Ranking Member,

Hon. OLYMPIA J. SNOWE,

Hon. MARIA CANTWELL,

Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Dear Senators,

On behalf of the State of Maine, I am writing to urge the Senate to take positive action on reauthorization of the Coastal Zone Management Act this year, and to thank you for scheduling a hearing this week on S. 360, the Coastal Zone Enhancement Reauthorization Act. I would especially like to acknowledge Senator Snowe's ongoing leadership in support of the CZMA, as co-sponsor of S. 360 (along with Senator Kerry.) I am encouraged that the Senate is moving on the CZMA as called for in the President's U.S. Ocean Action Plan, in my detailed comments in response to the Ocean Commission, I emphasized the importance of an enhanced Coastal Zone Management Act as the vehicle for delivering on-the-ground environmental improvements and ensuring economically vibrant and ecologically sustainable coastal and ocean resources.

In Maine, CZMA funds, which are matched by the state, are used for protecting ocean and coastal water quality, assisting coastal communities with the impacts of growth, restoring coastal habitats, enhancing public access and mitigating coastal hazards. We have a strong Maine Coastal Program with a twenty-seven year track record of success. However, we continue to face significant, increasingly complex

challenges along our coast that can have a negative impact on both the health and economic well-being of this state and our citizens.

I would like to underscore a few areas of primary importance to Maine as you consider reauthorization of the CZMA:

1. *Increase support for state coastal zone management programs.* CZM grants are critical to meeting increased challenges along Maine's coast. Section 306 grants have supported the formation of Maine's Working Waterfront Coalition, development of a municipal technical assistance effort and a local grants program, all aimed at stemming the tide of conversion of Maine's small working harbors to residential and tourist-related uses.

The authorization of the Coastal Resource Improvement Program, under Section 306A, and Coastal Zone Enhancement Grants, under Section 309, are important to providing much needed assistance to local communities. Section 309 funds now support our 2 year bay management study, helping us to determine how to work more effectively with towns and other stakeholders to ensure balanced development and conservation of nearshore waters.

Decreases in Federal CZM funding in 2005 caused the Maine Coastal Program to reduce staff and services. A \$500,000 reduction in funding severely impacted our local grants program, and our nonpoint source pollution program. Maine supports the authorization levels proposed by the Coastal States Organization, but calls attention to the need for funds to sufficiently address polluted runoff in addition to the myriad of other eligible priority needs.

2. *Authorize a Coastal Communities Program.* By providing incentives to local government, Congress will enable state and local governments to better manage our nationally important coastal zones. CZM funds in Maine currently support a twelve-town habitat and open space planning initiative in which the municipalities are expected to develop joint programs for protection of regionally significant habitats. Further down the coast, a groundbreaking agreement on the Penobscot River will result in significant habitat improvement while protecting hydropower opportunities. Coastwide, more than 30 towns have been assisted with habitat protection strategies. The cost to fully implement these programs is substantial and requires a strong commitment on the part of our local/state/Federal partnership.

3. *Provide ongoing funding for Coastal NonPoint Pollution Control.* It is estimated that more than 80 percent of pollution entering Maine's coastal waters is from diffuse sources of coastal runoff, yet most programs that assist states with control and elimination of polluted runoff are being cut. To not target significant funding towards a priority problem is an inefficient use of Federal and state resources. S. 360 allows CZM programs to direct funds towards pollution programs in addition to other state priorities.

4. *Maintain existing Federal consistency provisions.* The Federal-state partnership established under the CZMA enables state review of Federal activities to ensure compliance with state plans. In Maine, Federal consistency has not limited reasonable activities and development of resources in the coastal zone. To the contrary, our staff has been praised by Federal agencies, military staff and private sector developers for their fair, thorough and timely response to Federal actions in the coastal zone. I would oppose any actions to weaken the CZMA requirements for coordination and consistency with state plans.

5. *Increase opportunities for regional cooperation.* Finally, I am aware of the work of NOAA and other agencies to reorient existing programs towards an ecosystem-based management framework. In the Gulf of Maine, we have the beginnings of such an innovative approach to regional governance in the Gulf of Maine Council, the Regional Association for Research on the Gulf of Maine and the GOM Ocean Observing System (GoMOOS). S. 360 could be further strengthened by including provisions for regional cooperation and a grants program to provide incentives for states to pursue regional pilot projects that demonstrate success in ecosystem-based management.

I would like to work with you in the coming months on any necessary changes to S. 360 and to ensure its passage during this 109th Session of Congress. Thank you for taking up this important matter at this time.

JOHN ELIAS BALDACCI,
Governor.

STATE OF OREGON STATE CAPITOL
Salem, OR, May 25, 2005

Hon. TED STEVENS,
Chairman,
Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Dear Chairman Stevens:

On behalf of the State of Oregon, I want to express my strong support for reauthorization of the national Coastal Zone Management Act (CZMA). The CZMA has been instrumental in helping Oregon to balance growth and economic development in coastal communities with protection of the outstanding scenic and environmental resources of the Oregon coast. Reauthorizing this important Act will affirm the values and importance of our coasts to the Nation and underscore the need to manage and protect them for the future.

For nearly three decades, Oregon and the Nation have benefited from unique provisions of the Act that promote partnerships among states, local governments, and Federal agencies to address crosscutting issues affecting coastal watersheds, shorelands, estuaries and ocean resources. Funding under the Act has been vital to building capacity in local governments and state agencies to protect coastal resources, provide public amenities and manage growth. Many cities simply could not do the job of protecting coastal resources, providing public access, or creating livable communities without this Federal funding. The Act's unique "Federal consistency" provisions enable Oregon to review Federal agency actions to ensure that they meet state and local needs and requirements.

The recent report of the U.S. Commission on Ocean Policy described many issues facing the Nation's coasts and oceans that I believe can be most effectively addressed through strengthened state coastal management programs. These issues include managing urban growth, protecting and restoring coastal habitats, reducing pollution from watersheds into coastal waters, avoiding or reducing natural hazards on coastal shorelands and in floodplains, planning and managing ocean resources, reinvesting in port and harbor facilities, providing public access, education, and information, and protecting special coastal and ocean areas. Thus I believe that it makes sense to not only reauthorize the CZMA but also strengthen it based on need and experience.

I urge the Congress to add a Coastal Communities Program, as recommended by the Coastal States Organization, to address development and conservation through community assessments, planning, and demonstration projects. Oregon has targeted significant state and Federal CZMA financial and technical resources to local governments to assist in managing growth and development while protecting coastal resources. Based on our experience, I firmly believe that a robust Coastal Communities Program would pay big dividends to the Nation in protecting coastal resources while growing coastal communities.

Because meeting the increasing challenges of coastal management through the CZMA will require increased funding, I also encourage the Committee to support significantly higher levels of Federal Appropriations for coastal zone management to help states and local governments, as well as related special programs such as the NOAA Coastal Services Center, National Estuarine Research Reserve system, and research on nearshore ecosystems and fisheries on which our coastal communities depend.

I thank you and the Committee for your important work on this vital piece of legislation. If I can provide you with more information about coastal zone management in Oregon, please do not hesitate to contact me.

Very truly yours,

THEODORE R. KULONGOSKI,
Governor.

cc: Oregon Congressional Delegation

STATE OF WASHINGTON OFFICE OF THE GOVERNOR
Olympia, Washington, June 6, 2005

Hon. TED STEVENS,
 Chairman,
 Hon. DANIEL K. INOUE,
 Ranking Member,
 Hon. OLYMPIA J. SNOWE,
 Hon. MARIA CANTWELL,
 Senate Committee on Commerce, Science, and Transportation,
 Washington, DC.

Dear Senators,

On behalf of the state of Washington, I am writing to urge the Senate to reauthorize the Coastal Zone Management Act (CZMA). Both the President's U.S. Ocean Action Plan and the U.S. Commission on Ocean Policy's final report, *An Ocean Blueprint for the 21st Century*, recommended reauthorizing the CZMA and highlighted its importance in ensuring economically vibrant and ecologically sustainable coastal and ocean resources.

We face significant challenges along our coast that can impair the health and economic wellbeing of our state and its citizens. The CZMA funds are matched by Washington State to help protect coastal resources and support waterfront and port development, recreation, and tourism. We are addressing salmon recovery in Puget Sound, water quality problems in Hood Canal, shoreline erosion on the Pacific Coast, and other difficult coastal management issues. To meet these challenges and to advance the President's Ocean Action agenda, it is critical that we increase CZM resources to support local shoreline planning, watershed protection, and habitat conservation.

I am informed that the Senate Commerce, Science, and Transportation Committee began considering the CZMA reauthorization at a hearing on S. 360 (sponsored by Senators Olympia Snowe and John Kerry) on Wednesday, May 25. The following issues are of primary concern to our state in considering reauthorization of the CZMA:

1. *Increase support for state and territorial coastal-zone management programs* to provide funding and assistance to help our communities anticipate and accommodate growth while protecting coastal resources. The authorization of the Coastal Resource Improvement Program, under Section 306A, and Coastal Zone Enhancement Grants, under Section 309, provides much-needed assistance to local communities updating their shoreline plans and conserving natural resources.
2. *Authorize a Coastal Community Program* to provide funding and technical assistance to help local governments plan for growth, reduce nonpoint-source pollution, protect and restore important habitat areas, and revitalize waterfront areas. Coastal communities in Washington—from our urban cities on the shores of Puget Sound to our rural communities on the Pacific Coast—are in direct need of additional assistance in meeting these challenges.
3. *Maintain existing Federal consistency provisions.* The Federal-state partnership established under the CZMA gives states the power to ensure that Federal activities, such as dam re-licensing and dredging projects, are consistent with the state's coastal program. In Washington State, Federal consistency has not limited reasonable activities and development in the coastal zone. I oppose weakening the CZMA requirements for coordination and consistency with state plans.

Reauthorizing the CZMA will enable state and local governments to better manage locally and national significant coastal areas. These programs invigorate our economy and improve quality of life for the citizens of Washington. For all of these reasons, I request your support of S. 360 this year.

Thank you for your attention to these concerns. Please let me know how I can help.

Sincerely,

CHRISTINE O. GREGOIRE,
Governor.

Ms. COOKSEY. Many coastal States are taking the lead in responding to these plans for action. Hawaii, California, and Alaska

have established ocean councils. Alaska is in the process of successfully completing amendments to its CZM program. Massachusetts has proposed legislation to develop a comprehensive ocean management plan. South Carolina is developing recommendations for its coastal future. The New Jersey Governor recently announced a coastal action plan. There are also significant state-led plans throughout the Nation, Pacific Islands, and Alaska.

CSO's recommendations largely track the Ocean Commission blueprint and the proposals already included in S. 360 in the four following areas: support for coastal program implementation and enhancement grants shared by all States under CZMA sections 306 and 309; support for proposals for resource improvement grants under section 306A and community grants under the new section 309[a]; continued support for Federal consistency authority under CZMA section 307; clear authority and funding for the National Estuarine Research Reserves' research, education, and stewardship missions under section 315 and 318; and additional authority to foster regional ecosystem management under section 308 and management-oriented research and technical assistance under section 310.

CSO strongly supports the recommended authorization levels for State grants under sections 306, 306A, and 309. The language added under 306[c] providing for equitable sharing of increased funds by all States is important to assure that States whose grants have been capped over the past 6 to 10 years will receive a fair share of increased funding.

We request the Committee also make changes to section 309 to expand eligibility for enhancement grants, to include not just formal program changes but also projects or activities that support improved ecosystem-based management, or demonstrate significant potential for improving integrated coastal watershed and ocean management.

CSO strongly supports a proposal under Senate Bill 360 to support resource improvement grants that are listed under section 306A and the coastal community grants under 309[a].

There seems to be considerable confusion about both the purpose and application of the CZMA Federal consistency authority. It has wrongly been characterized as a duplicative level of authority and review. On the contrary, the clear objective and function of consistency is to support a process for coordination and cooperation. This is how it actually works in the vast majority of States and it works well, including in Delaware.

While all Federal activities and permits that may affect resources and uses of a State coastal zone will trigger consistency, it does not impose new regulatory requirements. It simply provides that that activity must be consistent with those applicable State enforceable policies that already exist and are incorporated into the Federally approved program.

CSO does not support piecemeal amendments to the CZM that have been proposed in the various versions of the energy bill that Senator Nelson mentioned this morning. CSO and NERRA are pleased that Senate Bill 360 clarifies the authority of the reserve system to include education and resource stewardship in addition to research.

We urge the Committee to consider amending the CZMA or passing companion legislation to provide additional support for State-regional collaborations. Currently CZMA section 308 authorizes the use of the CZM management fund for other things, projects to address management issues that are regional in scope, projects including interstate projects, and demonstration projects, which have a high potential for improving coastal zone management, especially at the local level. We propose that these specific authorities be retained and amended to support adaptive ecosystem-based management, rather than direct the CZM fund to NOAA to offset operating and administrative costs.

CSO also recommends strengthening the provisions of section 310 to include support for a regional coastal services center. As recommended by the Ocean Commission, funding should be authorized annually for grants to States under this section.

Thank you for the opportunity to testify today. CSO is ready to work with you in any way to support passage and reauthorization of the Coastal Zone Management Act.

[The prepared statement of Ms. Cooksey follows:]

PREPARED STATEMENT OF SARAH W. COOKSEY, ADMINISTRATOR, DELAWARE COASTAL PROGRAMS; BOARD MEMBER AND FORMER CHAIR, COASTAL STATES ORGANIZATION

Introduction

I want to thank Committee Chairman Ted Stevens, Subcommittee Chair Olympia Snowe, as well as Ranking Members, Senators Daniel Inouye and Maria Cantwell, and other distinguished Members of the Committee for the opportunity to testify today on the reauthorization of the Coastal Zone Management Act (CZMA). On behalf of my colleagues in the coastal states, I also want to express our appreciation for your leadership in supporting the CZMA and other crucial coastal and ocean legislation.

My name is Sarah Cooksey. I am the Administrator of Delaware's Coastal Management Programs, which includes both the coastal management and the research reserve programs. I am testifying today in my role as Board Member and former-Chair of the Coastal States Organization (CSO). I want to extend the regrets of the current CSO Chair, Phil Hinesley from Alabama, who couldn't be with us today as he is in American Samoa celebrating the 25th Anniversary of their CZM Program. Since 1970, CSO has represented the interests of the coastal states, including the Great Lakes and island territories on matters related to coastal, Great Lakes and ocean resource protection, management and development. CSO's membership consists of Delegates appointed by the Governors from the 35 States, Commonwealths, and Territories. The National Estuarine Research Reserve Association (NERRA) is also an affiliate member of CSO. For the record, I request that this testimony be added to the record and have also attached a copy of the National Governors Association (NGA) policy that calls for CZMA reauthorization.

It is fitting that the CZMA, which was originally passed to support recommendations of the 1969 Stratton Commission, will be reauthorized to address the recent and important call to action detailed in the U.S. Commission on Ocean Policy final report and the President's U.S. Ocean Action Plan. Both documents identified reauthorization of the CZMA as a priority. Legislative priorities, in addition to the CZMA, that were identified by both the Ocean Commission and the Action Plan under the jurisdiction of this Committee include a NOAA Organic Act, and the Magnuson-Stevens Fisheries Conservation and Management Act. We hope to see action this year on these fundamental building blocks of any national coastal and ocean policy. The time for action is now.

Our Nation's history, economy and culture are inextricably linked to and dependent upon the natural resources and economic vitality of the coasts—from the ports around which our nation's largest cities grew; to the fishing communities along the coast of Maine; to the beaches from Cape Cod to California; to the habitats of Galveston Bay and wetlands of Louisiana; to unique landscape and indigenous peoples of Alaska and the Pacific islands. It has been estimated that 1 out of 6 U.S. jobs is marine related, and 1/3 of the Gross Domestic Product is produced in coastal counties. The 180 million American and international visitors who enjoy coastal areas

and coral reefs each year account for 85 percent of U.S. tourism revenues. International shipping brings more than \$700 billion in goods to U.S. ports. Coasts—where our nation's major river basins connect our inland watersheds to our oceans—are truly a national resource.

The Coastal Zone Management Act (CZMA)

The CZMA is the only national program that supports a Federal-state partnership with the goal of improving both the quality of life in coastal communities and enhancing the stewardship, sustainable use and conservation of coastal and ocean resources for the benefit of current and future generations. Congress was prescient in 1972 when it passed the Coastal Zone Management Act (CZMA) to provide incentives:

to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve the wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development programs (16 USC 1452(2))

The CZMA is unique in linking Federal, state and community-based coastal management efforts. The CZMA furthers national goals by supporting the identification of priorities and implementation of local strategies in the three fundamental ways.

- It provides a national framework and matching grants that support states, in working with local communities and Federal agencies partners, to develop and implement coastal and ocean management plans, program and policies, which are based on local priorities and further the national economic, environmental and societal objectives set out in the Act.
- It provides a process for coordinating state and Federal activities, licenses and permits to assure that they are consistent with the applicable policies of Federally approved state coastal zone management programs. (This is commonly referred to as “consistency authority.”)
- It establishes and supports a network of 26 National Estuarine Research Reserves representing diverse estuarine and coastal ecosystems, which play a critical role in national efforts to understand and sustain healthy estuaries and coastal communities.

Thirty four of the 35 eligible state have developed—and the 35th state, Illinois, is in the process of developing—comprehensive coastal programs which are designed to protect and restore wetlands and other critical habitats; increase recreational opportunities and public access to shorelines; reduce the threats of coastal hazards to public health and property; and reduce coastal pollution and cumulative and secondary that can degrade coastal waters; as well as, to support well-planned coastal communities, compatible coastal dependent development and revitalize waterfronts.

The 26 estuaries have been designated as part of the National Research Reserve System (NERRS) include sites from Alaska to Puerto Rico, with an additional site in Texas expected to be designated later this year. NERRS serve as local laboratories and regional centers of excellence. At Reserve sites, coastal communities can access a broad array of critical information and coastal services. These services include: (1) training to promote informed environmental decision-making; (2) a national monitoring program for estuaries; and (3) education opportunities for students and the public. With these key elements, the reserve system is in the unique position of serving the national interest while responding to local needs. They have developed several unique system-wide national programs including system-wide monitoring, graduate research fellowships and coastal training programs.

Many coastal states are taking the lead in building on these efforts. In Hawaii, California, and Alaska, the Governors have established Ocean Councils to take a more integrated and comprehensive look at coastal and ocean management priorities. As you will hear about in later testimony, Alaska is in the process of successfully completing amendments to its CZM program. The Governor of Massachusetts has proposed legislation to improve management of coastal estuaries and to develop a comprehensive ocean management plan. South Carolina has completed an assessment and developed recommendations for its “Coastal Future.” The New Jersey Governor recently announced a Coastal Action Plan. Other states are developing equally ambitious coastal and ocean agendas. There are also significant state-led regional efforts in the Gulf of Maine, Mid-Atlantic, Gulf of Mexico, and the Pacific Islands.

Enacting many of the recommendations proposed in S. 360, *The Coastal Zone Enhancement Reauthorization Act of 2005*, will provide much needed support for these

ongoing efforts, encourage increased coordination, and improve partnerships with Federal agencies, as well as the private and public sector that will be crucial to our nation's future success in managing coastal and ocean resources.

Coastal and Ocean Stewardship Challenges: A Roadmap for CZM Reauthorization

The final report of the U.S. Commission on Ocean Policy (April 2004) documents the challenges and sets out a vision and blueprint for action for the future of our nation's coasts and oceans. To address the many challenges outlined in the Report, the Ocean Commission Coastal population is increasing by 3,600 per day—a rate of growth that may result in 27 million more residents per, in an area that is already the most densely populated in the country. The impact of resulting land consumption and development can outstrip population increased by 3–5 times the pace of population. That rate of harmful algal blooms (HAB) outbreaks and appearances of “dead zone” are increasing. In 1997, HABs cost the Maryland seafood and recreation industry more than \$50 million. Hurricanes and tropical storms are predicted to continue to threaten coastal communities.

Although less comprehensive than the Ocean Commission Report, the President's *U.S. Action Plan* (September 2004) recognizes the need to support adaptive, ecosystem-based approach management and to facilitate regional management. The *Action Plan* specifically calls on Congress to work with the Administration to reauthorize the CZMA. The Ocean Commission Report recommends significantly increased funding for states to undertake coastal and ocean programs and activities. The Report also calls for implementation of improved regional ecosystem-based approaches to management to address the growing pressures of coastal development, emerging uses and conflicts in ocean areas, including ecosystem assessments, improved scientific information, monitoring, and research to support adaptive coastal and watershed management.

The Ocean Commission Report specifically recommends that the following be included in CZMA reauthorization:

- strengthen the planning and coordination capabilities of coastal states to address watershed and ocean planning;
- increase Federal financial, technical and institutional support for sustainable community development;
- expand investment in the conservation and restoration of coastal habitats; and
- support state coastal resource assessments.

In response to the Ocean Commission Report, President George Bush put forth the *U.S. Ocean Action Plan* (September 2004) which recognizes the need to support adaptive, ecosystem-based approach management and to facilitate regional management. The *Action Plan* specifically calls on Congress to work with the Administration to reauthorize the CZMA.

S. 360, at least in part, addresses all of these recommendations. A more specific discussion of S. 360, as well as CSO and NERRA recommendations for reauthorization is set out in the following section.

S. 360—Reauthorization Recommendations

The coastal states have several recommendations which should be included in legislation to reauthorize the CZMA. These changes will substantially improve the capacity of states to meet the national goals of the CZMA, as well as the challenges identified in the Ocean Commission Report and the President's *U.S. Action Plan*. The states appreciate that their recommendations have largely been addressed in S. 360.

Summary of Primary Recommendations

- Provide increased funding and support for all eligible coastal management programs to increase their capacity to address the challenges identified in the Ocean Commission Report. Assure that all eligible states share equitably in the increased funding. (See S. 360, Sections 3, 7 and 17)
- Authorize additional support for grants to states for resource management improvements including habitat restoration, reduction of coastal nonpoint pollution and support for well-planned community development. (See S. 360, Sections 8, 11 and 17.)
- Continue support for governmental coordination and consistency of Federal activities and permits activities that may affect state coastal resources with applicable, Federally approved state coastal management policies, as provided in Section 307 of the CZMA.

- Clarify the authority and increase funding for the NERRS system including core program administration, coastal training, site stewardship, system-wide monitoring and research, national education initiatives, and construction of projects at Reserves (See S. 360, Sections 4, 5, 15, and 17).

Discussion and Additional Recommendations

Program Implementation and Enhancement Grants

Consistent with the recommendations of the Ocean Commission, S. 360 strengthens states' capacity to further the national goals of the Act and improve integration of coastal, watershed and ocean management activities. CSO strongly supports the recommendation for increased authorization levels beginning at \$90.5 million in 2006 for state grants under sections 306, 306A and 309. The language added to section 306(c) providing for equitable sharing of increased funds by all states reflects language that has been included in appropriations bills over the past several years. This provision is important to assure that states whose grants have been "capped" over the past 6-10 years will receive a fair share of increased funding (Capped states include but are not limited to AK, ME, LA, WA, TX, MA, NC, NJ, CA, SC, MI, and MD). CSO also supports the proposed changes that would eliminate the specific 10 percent cap on resource improvement grants under section 306A and the \$10 million limit on section 309 program enhancement grants.

We request the Committee to consider making a few additional changes to Section 309.

- Amend subsection (b)(1) to expand eligibility for enhancement grants beyond "program changes" to include "projects or activities that support multi-jurisdictional, multi-state or regional ecosystem-based management, or demonstrate significant potential for improving integrated coastal, watershed and ocean management."
- Rather than have the Secretary rank state enhancement proposals under subsection (c); provide states with the option to set aside up to 20 percent of grants annually for CZM program enhancements. This change would more accurately reflect current practice, since currently there is no actual ranking or competition for enhancement grants.

These changes would provide states with the flexibility they need to adopt innovative projects and strategies, as well as formal program elements, to enhance the effectiveness of coastal, watershed and ocean management efforts.

Resource Improvement and Community Grants

The expanded authority and funding provided in S. 360 to support resource improvement grants, under Section 306A, and coastal community grants, under 309A, will provide critical resources to support critical implementation actions that will result in increased public access and waterfront revitalization; protection of cultural and historic resources; habitat conservation and restoration; coastal hazards mitigation; control of aquatic invasive species; reduction of hypoxia, harmful algal blooms, and polluted runoff. It will also improve state capacity to provide technical assistance to coastal communities that support well-planned development and sustainable economic growth.

One change the states suggest the Committee make to these provisions is that, rather than directing the states to set aside \$10 million out of the section 309A community grants for coastal nonpoint pollution as provided in section 17(1) of the bill, additional funding be provided for states to use in a flexible way to take actions they deem necessary to be effective in protecting coastal water quality.

Federal Consistency Authority

There seems to be considerable confusion about both the purpose and application of CZMA Federal consistency authority. It has wrongly been characterized as a duplicative level of review or an additional state requirement. On the contrary, the clear objective and function of consistency is to support a process for "coordination and cooperation" of all applicable reviews at the Federal and state level. The CZMA correctly recognizes that that most effective way to further the national objective of the Act is to assure that Federal activities and permits incorporate applicable state requirements early in the process of developing there projects or activities.

In the case of Federal activities or permits that may affect state coastal uses or resources, Federal agencies or applicants are required to determine "at the earliest practical time" whether there are state requirements that apply and how they will be incorporated into the planned activity. The states are required to respond the consistency determination with any concerns "at the earliest practical time." This is how it actually works in the vast majority of cases—and it works well—in Dela-

ware and other states. Pending amendments to the consistency regulation proposed by the Administration would reinforce the requirements for early consideration and coordination of all reviews.

While all Federal activities and permit that “may affect” resources and uses of a state’s coastal zone trigger consideration of consistency, it does not impose new regulatory requirements. It simply provides that the activity must be consistent with those applicable enforceable policies that already exist and that are incorporated into the Federally approved coastal management programs and are recognized as furthering the national goals of the Act. The CZMA provides further safeguards for the agencies and applicants by providing for an appeal to the Secretary of Commerce to assure that decisions are consistent with the national objectives of the CZMA and national security. Provisions are set in the CZMA and consistency regulations that allow states to identify what Federal activities and permits affecting the coastal zone they want to review, including what they do not want to review, and to work with Federal agencies on coordinated review processes. These provisions include listed and unlisted activities, geographic location, and exceptions of de minimus impacts (See e.g. 15 C.F.R. sections 930.34 and 930.53.) These regulations should provide the necessary flexibility for the state to determine how to assure that applicable state requirements can most effectively provide for consistency of Federal activities that affect state coastal resources.

NERRS

Of particular importance to the NERRS is the framework provided by the CZMA to meet the need for informed decision-making at the Federal, state, and local levels. Amendments to the Act should:

- Provide effective mechanisms to assess the technology and information needs of coastal communities at local and regional scales
- Strengthen the capacity of the state-Federal partnership to support research and monitoring relevant to local and regional needs, and
- Improve the access and delivery of science-based information to coastal communities, and evaluate the performance of the state-Federal partnership in support of informed coastal decisions.

CSO and NERRA are pleased that S. 360 broadens the authority of the Reserve System to include education and resource stewardship in addition to research. We want to assure that the final language provides adequate authority for NERRS’ primary research and education elements including the Coastal Training, System-Wide Monitoring, Graduate Research Fellowships, and K–12 Estuarine Education Program.

We would respectfully suggest that a vision for expansion of the NERRS be included in a reauthorization bill. NERRA vision is to enhance research, education, and stewardship activities nationwide through the establishment of Reserves in every coastal and Great Lakes state, as the resources become available. With respect to authorization levels, NERRA recommends that a stable base for each Reserve be provided to support basic operations and research, education, and stewardship programs.

NERRA supports a 5-year reauthorization beginning at \$22 million and increasing by \$1 million per year to accommodate new sites, expansion of products and services, and cost of living increases.

CSO and NERRA strongly endorse incorporation of funding for construction and land acquisition into the reauthorization measure as stated in S. 360. The NERRS have established procedures for setting priorities for construction and land acquisition, and recently assembled long-term plans to meet construction and land acquisition needs. Incorporation of funds for these purposes—\$15 million per year, as stated in S. 360—into the CZMA will provide a stable, long-term source of funding for the NERRS to maintain facilities in support of research, education, and stewardship programs, as well as to acquire priority land and water areas for watershed management.

Fostering Regional Partnerships and Management-Oriented Research

We urge the Committee to consider amending the CZMA to provide additional support for state-regional collaborations that identify priority coastal and ocean management issues and develop implementation strategies based on best science available. Both the Ocean Commission and Administration’s *Action Plan* call for a more ecosystem-based regional coastal watershed and ocean management strategy, and support for regional pilot projects that build on existing plans and processes. The CZMA can provide a direct link now to these regional efforts through states coastal and ocean management plans, based on consideration of public trust, public

health and safety interests. Currently, CZMA section 308 authorizes the use of the Coastal Zone Management Fund for, among other things: “projects to address management issues that are regional in scope projects, including interstate projects,” and “demonstration projects which have a high potential for improving coastal zone management, especially at the local level.”

We propose that these specific authorities be retained and amended to reflect support for adaptive, ecosystem based management of coastal watershed and oceans. Rather than redirect the CZM Fund to NOAA top offset operating and administrative costs as proposed by S. 360, Section 9, the current balance in the fund as well as future payments should be dedicated to the states as originally intended for these regional, interstate, and ecosystem based watershed projects and activities. Additional funding should be authorized and deposited in the Fund to support competitive grants for such multi-jurisdictional, interstate or regional partnership projects, taking into account a balance of regional needs, state priorities, and a variety of project types and scales. While the oil and gas loan repayments that have traditionally supported the CZM Fund are scheduled to diminish in coming years, Congress should consider replenishing the Fund through both annual appropriations and dedicating new revenues generated from permitting offshore uses such as aquaculture, transportation and other support facilities for oil and gas, and renewable energy activity.

The Ocean Commission report recognized the importance of investing in improved understanding of the coastal and ocean ecosystems, and recommended support of coastal assessments and regional information programs led by the states. To address this recommendation in part, CSO recommends amending the provisions of CZMA section 310, which require the Secretary to conduct a program of “technical assistance and management-oriented research” necessary to support the implementation of State coastal management programs. The section’s current limitation to assistance and research related to “program amendments under Section 309” should be eliminated. Provisions should be strengthened that require the Secretary to coordinate efforts relevant to intra- and inter-agency Federal agency research, studies and technical assistance activities. CSO supports the proposal in S. 360, Section 12 that would authorize the Secretary to establish a program enter into cooperative agreements to support development of innovative coastal and estuarine technology. That section should be expanded to authorize regional coastal service centers, as needed, charged with coordinating and facilitating access to NOAA and other Federal agency research and technical assistance, disseminating relevant information and provide technical assistance, training and transfer best coastal and ocean management practices. Subsection 310(b)(3) should be amended “establishes and supports a routine process to assure that” the Secretary consults with states on a regular basis regarding “coastal and ocean research and information needs,” as well as development and implementation of programs under the section.

Finally, \$30 million should be authorized annually for grants to states under this section to undertake periodic ecosystem assessments of natural, cultural and economic coastal resources to support development of relevant performance indicators and sound coastal and ocean management decisions. This funding can be used to identify gaps in monitoring and research needs and to make relevant information available to the public through mechanisms such as the “state coastal atlas” developed by Oregon or other information management or geospatial information tools or techniques. NOAA should support efforts to link these state assessments to broader regional ecosystem assessments and ocean observations systems.

Conclusion

Thank you for the opportunity to testify today. CSO is ready to work with you in any way to support passage of S. 360 and reauthorization of the Coastal Zone Management Act this year.

Senator SNOWE. Thank you, Ms. Cooksey, and I want to thank all our panelists.

I would like to address one of the first issues, and I know Senator Nelson has raised it with the imminent markup of the energy bill in the Energy Committee. With the Senate being on the verge of considering new energy legislation and new energy policy, one of the issues that has surrounded the reauthorization of the Coastal Zone Management Act—and in fact has been a barrier to securing reauthorization, as Chairman Stevens said, since 1999—has been

clarity and predictability with respect to the regulatory process and the consistency requirements under the legislation.

I would like to be able to work through some of these issues and to separate fact from fiction, because, as you mentioned, Dr. Kitsos, in your remarks here this morning, States have concurred with about 95 percent of the projects that they have reviewed under these consistency provisions. So exactly what is the essence of the problem here?

There is a lot of exaggeration with respect to this process. It is an issue that we are going to have to grapple with. We are facing some of these challenges because if they attempt to lessen States' rights or circumvent the Coastal Zone Management Act in the energy legislation, we have to counter those attempts with the facts.

So can you clarify the regulatory process and exactly what is at issue here, especially regarding claims about an unlimited process that they now want to reduce? I know the Commerce Department, in conjunction with Interior, has recommended a 270-day process, for example. Tell me, what has generally been the standard for this consistency requirement process?

Dr. KITSOS. Well, the standard, Senator SNOWE, is that States have an approved program that includes specific enforceable policies and that Federal agencies or that private applicants for Federal licenses and permits conduct activities that are consistent with those enforceable policies. In a very general way, that is sort of the consistency principle.

It has been subject to some controversy. On behalf of NOAA, we do not believe that it is as controversial as other folks have asserted, and the statistics as you quoted from my written testimony are in fact accurate.

Now, some will argue those statistics leave out a number of cases where States have used consistency as leverage to bring people to the table to get some things done that the applicant or the Federal agency might not otherwise have wanted to do. Our response to that is that is the purpose of section 307 of the CZMA. It is called the intergovernmental cooperation section and it is intended to try to get Federal Government and State governments and local applicants to work together to make sure that their activities are not inconsistent with approved CZMA programs.

Some of the more high visibility cases deal with offshore oil and gas and I think the witness for the National Ocean Industries Association later today, this morning, will talk about those perhaps in some greater detail. But there have only been about 14 of those and 7 have come down on the side of the State and 7 have come down on the side of the—

Senator SNOWE. So there are 14?

Dr. KITSOS. 14 cases have gone to appeal to the Secretary of Commerce.

Senator SNOWE. Out of how many, would you say?

Dr. KITSOS. Thousands.

Senator SNOWE. Thousands?

Dr. KITSOS. Thousands and thousands. Thousands and thousands of exploration plans and development and production plans and lease sales over the years since 1978, since the OCS Lands Act was amended. Now, most of those of course come from the Gulf of Mex-

ico, Mississippi, Alabama, particularly Louisiana and Texas, where the acceptance of offshore oil and gas of course is quite positive, and the consistency issue has not been a matter of contention.

The number of cases that have reached the level of the Secretary of Commerce generally come from outside the Gulf of Mexico, some in California of course.

So our sense is that consistency is working. It is working, it is working well. We believe that your legislation, which has not opened that up, is a good idea and that, as Dr. Cruickshank has indicated, the Interior and Commerce Departments have worked well together on crafting a proposed regulation that we hope will become final. It is a potential rule that we hope will become final, that deals with issues of streamlining, the kind of record that needs to be put before the Secretary of Commerce, and the time limits involved in the Secretary making appeal decisions.

But we believe that that addresses the issues that were in the Vice President's energy report and should resolve a number of problems.

Senator SNOWE. For the record, could you explain what happens in the 270 days? Is that correct?

Dr. KITSOS. Well, it is a little more detailed than that, but essentially the 270 days is the time for the Secretary of Commerce to keep the record open. Then once the record closes, under current law there is a 90-day period for the Secretary to make a final decision, and if he needs another 45 days he can have that. But then he must issue a decision.

There is an agreement between the Commerce Department and Interior Department that the Secretary of Commerce should not have an unlimited amount of time, as long as he has the material needed to make a decision, in order to make an appeal decision about a consistency case. We believe that the regulation that is currently being considered addresses that directly.

Senator SNOWE. Dr. Cruickshank, could you speak to that as well, from your perspective in the Interior Department?

Dr. CRUICKSHANK. Yes. I would agree with Dr. Kitsos' statement that—with one minor exception. Our count is there have been 17 appeals, 14 of which actually came to decision with the Secretary of Commerce. Three were actually resolved during the appeals process before a decision was required. But the numbers are very similar in that regard.

But we also feel that the issues that have been raised are issues that can and should be dealt with through the rulemaking process, and we have been working, as Dr. Kitsos indicated, very closely with NOAA and we are very pleased with the way the rulemaking process has gone.

Senator SNOWE. Ms. Cooksey, would you like to speak to that?

Ms. COOKSEY. Just very briefly. States believe it is fair and it is based on State enforceable policies. It levels the playing field.

Senator SNOWE. I know you have mentioned in your testimony that the consistency requirements have been mischaracterized. I would concur with you, and this speaks to the issue in terms of the track record. So the 270-day period, does that—

Ms. COOKSEY. That is not a problem.

Senator SNOWE. It is not a problem, OK. Thank you.

Chairman Stevens.

The CHAIRMAN. Dr. Kitsos, I participated in the 1996 amendment that would require issuing a final decision for an appeal 90 days after the issuance of a notice of decision and the record was closed. I have before me the list of those consistency appeals. I think there are only two that were decided in less than a year. The months elapsed run from 23 months, 15 months, 16 months, 25 months, 39 months, 49 months, 48 months, 50 months, 38 months, and 50 months. Two of them were withdrawn, one after 50 months.

That does not sound to me like what you have just testified, a year plus 90 days. We had a law that said you would close the record within a reasonable period of time, and 90 days after that you would make a decision. Now, it seems to me through rule-making you have decided that 270 days is a reasonable period of time. Where did you get that?

Dr. KITSOS. Well, that is based on the experience of the Department on how much time it takes to deal with some of these difficult consistency issues. Senator, I do not have that list in front of me.

The CHAIRMAN. I would be glad to put it in the record. The question is, how long does it take from the objection date? You are answering from the decision to close; the question is from objection to close. We have got some interesting times coming.

Just for instance, I am sure we will hear about this later, but I was told just last week that by 2015 we will be importing 40 percent of our natural gas. There are only two places in the United States will allow that to be done now, despite repeated attempts. So the industry now is going to Mexico on the West Coast. I assume they will go to Canada on the East Coast. There is one place in Maine where they now can go, I understand, one place, a Native reservation in Maine.

But do you think you can have this record duplicated in connection with those offshore plants?

[The information referred to follows:]

OCS-Related Coastal Zone Consistency Appeals

Since 1982 there have been 14 appeals that have had Secretarial decisions issued and of those, 7 of the State's objections have been overridden. There have been others which were settled, dismissed on procedural grounds, or withdrawn before getting to a Secretarial decision. There are no active OCS activity appeals.

Consistency Appeals	Company	State	Objection Date	Appeal Filed	Months Elapsed	Decision Date	Decision
P-OCS 0203 Exploration Plan	Union	CA	11/17/82	12/17/82	23	11/9/84	Granted
Santa Rosa Exploration Plan	Exxon	CA	7/26/83	8/26/83	15	11/14/84	Denied
Santa Ynez Development and Production Plan	Exxon	CA	6/23/83	7/22/83	16	11/18/84	Partial Decision; 6/87 Agreement
P-OCS 0505 Exploration Plan	Gulf/Chevron	CA	2/14/85	3/13/85	9	12/23/85	Granted
NPDES Permit*	Korea Drilling Co.	CA	11/14/86	12/12/86	25	1/19/89	Granted
P-OCS 0512 Exploration Plan	Texaco	CA	2/23/88	3/23/88	14	5/19/89	Granted
P-OCS 0522 Exploration Plan	Conoco	CA	6/9/88	6/29/88	39	9/23/91	Withdrawn
P-OCS 0525 Exploration Plan	Chevron	CA	6/9/88	7/1/88	28	10/29/90	Denied
Pulley Ridge Blocks 629 630 Exploration Plan	Unocal	FL	11/22/88	12/21/88	49	1/7/93	Denied
Pulley Ridge Blocks 799 Exploration Plan	Mobil	FL	12/16/88	1/11/89	48	1/7/93	Denied
Galahad Prospect Exploration Plan	Amoco	AK	3/6/89	4/3/89	15	7/20/90	Granted
Manteo Prospect NPDES Permit	Mobil	NC	7/17/90	7/27/90	50	9/2/94	Denied
Manteo Prospect Block 467 Exploration Plan	Mobil	NC	11/19/90	12/6/90	45	9/2/94	Denied
Diamond/Emerald Prospects Exploration Plan	Texaco	AK	11/9/90	12/7/90	3	Withdrawn	3/91 Agreement
Destin Dome Block 97 Exploration Plan	Chevron	FL	2/26/91	3/11/91	22	1/8/93	Granted
Pensacola Block 889 Supplemental Exploration Plan	Mobil	FL	4/6/92	4/29/92	38	6/20/95	Granted
Destin Dome Block 56 Unit	Chevron	FL	2/17/98	3/9/98	50	Withdrawn	Reached Agreement 5/02; Executed Agreement 7/02

*National Pollutant Discharge Elimination System Permit

Timeline for Selected Appeals

Union Exploration Partners Consistency Appeal Pulley Ridge

02/18/88	Union Submitted Proposed Plan of Exploration (and accompanying Environmental Report (ER))
04/08/88	MMS Determined Union's Plan and ER Complete
04/14/88	State of Florida (Florida Dept. of Environmental Regulation) Began Review of Union's Consistency Certification
06/03/88	MMS Approved Union's Plan and ER Subject to State Consistency Certification
08/16/88	State Notified MMS that Could Neither Concur nor Object—Needed Information from Two FL/DOI Task Groups and State Requested Additional Information from Union
09/08/88	Union Provided Additional Information
11/22/88	State Objected to Union's Proposed Plan of Exploration (Inconsistent with State CMP—Unique ecosystem and socioeconomic effects not adequately considered)
12/21/88	Union Filed Appeal to Secretary of Commerce and Requested 30 Day Extension from Briefing Schedule Issuance
03/09/89	DOC Granted Union's Request for an Extension
03/29/89	Federal Register Notice of Appeal and Request for Comments
04/19/89	Union Filed Timely Brief for Appeal
04&05/89	FL Newspaper Request for Comments on Appeal
04/28/89	DOC Solicited Views of 5 Federal Agencies and the National Security Council
05/11/89	DOC Granted State Time Extension for Response
05/24/89	State Requested a Public Hearing on Issues from this Appeal and Companion Appeal of Mobil
06/02/89	NOAA Granted State's Request
07/06/89	State Filed Timely Brief in Response to Union's Appeal
09/89	Local Hearings Held on Both Union and Mobil Appeals
10/12/89	2 FL/DOI Task Group Reports Admitted to Record ("Oil Spill Risk Assessment Task Force Report" & "Southwest Florida OCS Drilling Impact Assessment Task Force Report")
10/12&13/89	Union Filed Supplemental Information to Its Appeal
10/15/89	Record Closed to Public Comment
11/20/89	Union, Mobil. and the State Mutually Agreed Secretary Should Delay Establishment of Final Briefing Schedule (until after release of President's Outer Continental Shelf Leasing and Development Task Force report—Unless report not released by end of January 1990)
04/06/90	Secretary of Commerce established Final Briefing Schedule (President's Task Force Report not out)
05/21/90	State Requested Stay of Briefing Schedule
05/22/90	Union Opposed Stay
05/25/90	Union and State Both Filed Timely Final Briefs
06/07/90	DOC Denied Stay
06/08/90	Union and State Both Filed Timely Supplemental Final Briefs
06/26/90	President Imposed Moratorium on Oil and Gas Leasing and Development off Coast of Florida
01/07/93	Secretary of Commerce Denies Union's Appeal—(Ground 1: Not consistent with the objectives of the CZMA due to the value of the environmental resources and the potential for significant damage if impacted by oil. Ground 2: National Security not significantly impaired.)

Timeline for Selected Appeals

	Mobil Exploration & Producing U.S. Inc. Consistency Appeal Pulley Ridge
05/13/88	Mobil Submitted Proposed Plan of Exploration (and accompanying documents)
06/13/88	MMS Determined Mobil's Plan and Accompanying Documents Complete
06/15/88	State of Florida (Florida Dept. of Environmental Regulation) Began Review of Mobil's Consistency Certification
07/13/88	MMS Approved Mobil's Plan, Environmental Report, Environmental Assessment and Informed Mobil that Drilling Permits Would Not be Issued Pending State Consistency Certification Review and MMS Approval of a Biological Monitoring Plan
09/12/88	State Notified MMS that Could Neither Concur nor Object—Needed Information from Two FL/DOI Task Groups
12/14/88	State Objected to Mobil's Proposed Plan of Exploration and Accompanying Documents (Proposed activity inconsistent with the provisions of Florida statutes.)
1/12/89	Mobil Filed Appeal to Secretary of Commerce and Requested 30 Day Extension from Briefing Schedule Issuance
03/09/89	DOC Granted Mobil's Request for an Extension
03/29/89	Federal Register Notice of Appeal and Request for Comments
04/19/89	Mobil Filed Timely Brief for Appeal
04&05/89	FL Newspaper Request for Comments on Appeal
04/28/89	DOC Solicited Views of Federal Agencies and the National Security Council
05/22/89	State Requested a Public Hearing on Issues from this Appeal and Companion Appeal of Union
06/02/89	NOAA Granted State's Request
06/15/89	State Filed Timely Brief in Response to Mobil's Appeal
09/89	Local Hearings Held on Both Mobil and Union Appeals
10/12/89	2 FL/DOI Task Group Reports Admitted to Record ("Oil Spill Risk Assessment Task Force Report" & "Southwest Florida OCS Drilling Impact Assessment Task Force Report")
10/12/89	Mobil Filed Supplemental Information to Its Appeal
10/15/89	Record Closed to Public Comment
11/20/89	Mobil, Union, and the State Mutually Agreed Secretary Should Delay Establishment of Final Briefing Schedule (until after release of President's Outer Continental Shelf Leasing and Development Task Force report—Unless report not released by end of January 1990)
04/06/90	Secretary of Commerce established Final Briefing Schedule (President's Task Force Report not out)
05/21/90	State Requested Stay of May 25, 1990 Final Brief Filing and June 8, 1990 Supplemental Final Brief Filing Deadlines
05/22/90	Mobil Opposed Stay
06/07/90	DOC Denied Stay
06/26/90	President Imposed Moratorium on Oil and Gas Leasing and Development off Coast of Florida
01/07/93	Secretary of Commerce Denies Mobil's Appeal—(Ground 1: Not consistent with the objectives of the CZMA due to over-all adverse effects presumed to be substantial. Ground 2: National Security not significantly impaired.)

Dr. KITSOS. I think that if the proposed rule becomes final you will see those time limits reduced substantially. One of the—my sense of the data that you just quoted, Senator—and I would need to get back to you with a more detailed response for the record. But one of the issues in the 1996 amendments was that there was no time limit on when the Secretary of Commerce could close the record. Once the record was closed, then there were clear time limits.

The CHAIRMAN. We were told at the time that they would decide what was a reasonable time. Do you remember that?

Dr. KITSOS. Yes. I was not involved in that, but I do know a little bit about the history of that. But the record was kept open apparently in a number of cases longer than what others might consider a reasonable amount of time.

The proposed rule does address that, though, and would put clearer time limits on the Secretary to close the record.

The CHAIRMAN. Well, as Senator Snowe said, the energy provisions are unacceptable. One establishes a deadline for decision on appeals of a consistency determination. You have just said you are ready to set a deadline of a year; is that right?

Dr. KITSOS. Well, it is approximately a year. There is 30 days to notify. I believe the rule says 30 days to notify everyone that an appeal has been received. The record is kept open for 270 days for the Secretary to gather the material that he needs, and then he must issue a decision within 90 days after that.

The CHAIRMAN. Unless he decides to add 45 days more.

Dr. KITSOS. Exactly. But that would—

The CHAIRMAN. The other amendment is that the FERC record be the sole record for the administrative agency proceedings for application for authorization of offshore LNG or natural gas pipelines. That is highlighting what I have just said. That is the most critical problem facing the United States today, is how to get those onshore plants—how to get that LNG, natural gas—onshore. And we are to see at least a year and a half just on this kind of decision? There are lots of other decisions that have to be made about the pipelines beyond the CZMA hearing.

So these are going to just pyramid. It takes so much time for that, it will take so much time for endangered species, so much time for whatever else. There are a whole series of things you have to do. They told me you have to have 71 permits to drill a well in my State on Federal land. Now, if every one of those agencies takes that year, I am going to be Carl Hayden's age before we even approve the first application.

Dr. KITSOS. Senator, the Department of Commerce and NOAA is of course committed to the President's support for the energy legislation and for streamlining the process. We believe that we have, in the regulatory discussions we have had with the Interior Department, done a job of addressing that and reducing the amount of time that consistency appeals can be issued.

The CHAIRMAN. How about some immediate finding as to whether the complaint has merit? This has no relationship at all to the kind of hearing that has to be had in the future, which is, does this complaint have any merit? Is it something that is within the law that you possibly could find as a justification for delaying an offshore gas pipeline or LNG pipeline?

Why not do that? I think we will have to some day legislate that you can not interfere with those, because the future of the country depends upon energy and I do not know how we are going to get this gas distributed throughout the United States if we have to go to Mexico and Canada or Maine to deliver it to Florida or to Washington State.

This hearing is a very sincere hearing to try and find a way to pave the way for an agreement with the Energy Committee on how to do this.

Dr. KITSOS. Well, the consistency provision appeal process involves a private applicant bringing an appeal to the Secretary of Commerce. The Secretary of Commerce will make a judgment when

that is received. It is not an appeal brought by the States, Senator. It is an appeal brought in this case by—

The CHAIRMAN. I understand that, but anybody can bring it, and it triggers at least a year delay under your process.

Dr. KITSOS. It triggers a year of a review of the appeal of the merits of the case and whether the Secretary should override the State or should uphold the State. That has been the process since 1972 when the original CZMA was passed. It was reinforced by some strong amendments in 1990 by Congress and that is the way the process works. We believe we can cut down the amount of time and that is what we have in the potential rule that is currently being considered.

The CHAIRMAN. Thank you.

Senator SNOWE. Senator Nelson.

Senator NELSON. Thank you, Madam Chairman.

I would like to ask Dr. Cruickshank. In the House energy bill it includes a provision that would give the Secretary of the Interior new authority to grant easements and rights-of-way to allow oil and gas activities to proceed in an expedited manner. My question is, since this is a provision that was not recommended by either the U.S. Ocean Commission report or the Pew Commission report, is it a provision that the Administration and the Secretary of Interior support?

Dr. CRUICKSHANK. Yes, Senator Nelson, the Administration does support that provision. I would note that the activities foreseen by that provision are activities that are not currently authorized under any act, particularly to look for offshore renewable energy, to allow support facilities for deepwater activities in the Gulf of Mexico, and to allow existing oil and gas platforms, which are primarily in the Gulf, to be converted for other uses should the agency with the underlying authority wish to use that platform as a base.

All of these activities will be fully subject to the Coastal Zone Management Act and consistency review.

Senator NELSON. Right, but it is a change of the existing act and the Administration, as you stated, does support that change. Now, as I see it it would streamline the permitting process by decreasing the input that coastal States would have on the process; is that correct?

Dr. CRUICKSHANK. I do not see that, Senator. For most of these activities right now there is no established process. These are for activities that are not currently specifically authorized in law, and again the State would have a role, both through the CZMA and through NEPA, and our goal would be to try and operate the program, much as we do with the sand and gravel program, where we would enter into cooperative agreements with States to try and work through the issues that are of concern to them off their shores.

Senator NELSON. Well, this provision supported by the Administration would cut NOAA out of the process, would it not?

Dr. CRUICKSHANK. It would not—it would not remove any authority that any Federal agency currently has.

Senator NELSON. And you maintain that this provision would not lessen the authorities of States to be able to protect their coastlines?

Dr. CRUICKSHANK. That is correct.

Senator NELSON. That is what you are maintaining?

Dr. CRUICKSHANK. Yes.

Senator NELSON. Then why are you proposing the change in the existing law?

Dr. CRUICKSHANK. Because right now there is no law that specifically allows—that specifically addresses energy projects other than oil and gas exploration and development. And as has been noted both in the U.S. Commission on Ocean Policy report and in the President's Ocean Action Plan, there does need to be some sort of governance structure over some of the activities that are being proposed for the coastal waters and offshore waters.

Senator NELSON. Right, so the provision is specifically for oil and gas.

Dr. CRUICKSHANK. No. It is aimed mostly at renewable energy. The only oil and gas items that would be covered is there have been requests to build platforms or facilities in the Gulf of Mexico to support some of the activities that are 150, 200 miles offshore; facilities that might house emergency medical facilities, helicopter refueling, things like that; and support activities that are authorized under other provisions, other parts of the OCS Lands Act.

That is the only—where there is a reference to oil and gas in this new provision, it is thinking about facilities like that. It would not in any way change the Outer Continental Shelf Lands Act provisions for oil and gas leasing.

Senator NELSON. So your testimony is that the provisions have nothing to do with oil and gas leasing?

Dr. CRUICKSHANK. That is correct.

Senator NELSON. On the outer continental shelf.

All right. There is another provision that makes FERC the sole agency responsible for maintaining the record on appeal for pipeline construction. This is an activity that would come under the CZMA consistency requirements and includes a record with input from the State and the public. Does this provision lessen the State and public involvement in the process and does it cut the CZMA and the Secretary of Commerce out of the process?

Dr. CRUICKSHANK. Senator, I am not in a position to speak for FERC and I am not well enough aware of their programs. I would say from the Department of the Interior's perspective we feel that the issues can be dealt with through the rulemaking process, as Dr. Kitsos has discussed.

Senator SNOWE. To follow up on that question that Senator Nelson posed on restricting the gas projects appeals to the FERC record of information, what information would be—is it so opened now that it becomes burdensome?

Dr. CRUICKSHANK. Again, I cannot speak for the FERC process. FERC is not part of the Department of the Interior and I simply do not have the background to be able to talk about how FERC conducts their business.

Senator SNOWE. But that is central to this program and its reauthorization. It is one of the other impediments to reauthorizing the Coastal Zone Management Act, as one of the issues that is probably going to be pending in the energy markup.

Dr. Kitsos, can you speak to that?

Dr. KITSOS. Carefully. There is an issue in the energy bill, Senator, regarding the record that would be available to the Secretary of Commerce for consistency appeals, the discussion that Senator Stevens and I just had. There is a provision that would limit that record to just the FERC record.

The Department of Commerce and NOAA is concerned about that because we believe the Secretary of Commerce needs to make a consistency decision based on a broader record based on coastal zone management issues and principles and the enforceable policies of the States, as CSO has just testified. The FERC record is important for FERC. The offshore oil and gas record is important to the Secretary of the Interior. But the Secretary of Commerce has other grounds based on statutory language on which he or she must make a decision about an appeal, whether to override or whether to sustain. We are concerned about limiting that record.

Senator SNOWE. Ms. Cooksey?

Ms. COOKSEY. I would like to reiterate that point. You are asking an excellent question that I also would like the answer to. I do not know what is going to be required to be in that record and that is a concern. We do not know what the decision will be made upon. Will it be about coastal effects, coastal economy, coastal resources?

The CHAIRMAN. Could I interject here?

Senator SNOWE. You may, Chairman Stevens.

The CHAIRMAN. Why could not these two proceedings be joined? Why do we have to have these things *seriatim*? You have an application to one agency, we go through a year, then it has to go to another agency for a year, then we will probably have a NEPA hearing after that. Why can we not have one-stop shopping on something that is so essential to the future of the country?

We are not talking about leasing. We are talking about facilities, facilities to bring onshore energy. Now, I just cannot understand why each Department and each agency wants its full time one after the other. I think once an application is filed with FERC we should tell them: You notify Interior, you notify Commerce, you notify anyone who has got a law that might be applicable to this, and you join together and you have a hearing and you make a decision. And that will be reviewable by a court on an emergency basis if necessary.

This has to be done. It will take 6 years to build those facilities and they have to be ready by 2015. I just do not understand it.

Ms. Cooksey, with due respect, there has to be some way to join these things together.

Ms. COOKSEY. Senator Stevens, I agree with you. I think that FERC should have started this process years ago and I think that they should have looked at it minimally on a regional level. Where is the place to site these? Which States want these? Where will it have the least amount of impact?

I have not seen that. It is a patchwork quilt. Then an application lands on my desk with an expedited review and it becomes burdensome upon the States to get all that information together. I believe the Federal Government has dropped the ball on this, not the States.

Senator SNOWE. Well, what should be the requirement on the Federal Government? What could we do differently that would help that situation?

Ms. COOKSEY. Again, in my view I believe it is the Federal Government's role to take a look nationwide. Where should these be sited?

Senator SNOWE. That is a difficult question, given the fact that you are talking about States' rights.

The CHAIRMAN. Yes, the basic problem is—I agree with the chairman.

Ms. COOKSEY. That would be part of—that would be included in the analysis. The State of Delaware has a prohibition of certain facilities in certain areas, and FERC should have looked at that ahead of time in my view.

Senator SNOWE. But is there not a better way? You really would be running roughshod over States' rights—I do not think that would work well in my State. But is there not another way of addressing the problems that Chairman Stevens is talking about? You have a sort of a linear, consecutive approach, rather than having an overarching one-stop shopping regulatory process with respect to the consideration of these decisions and the appeal process.

Is there a way of doing that, Dr. Kitsos—a way so that you are considering everything?

Dr. KITSOS. I think there is a way, Senator, for the Federal family to work more concurrently, along the lines of what Senator Stevens has indicated.

The CHAIRMAN. I suggest that as chairman I ask Senator Domenici for consultation between the two committees and let us just get together. Our two committees have the jurisdiction over what is being asked and I think we should not fight. We should find a way to expedite this and satisfy the requirements of having some sort of right to appeal on consistency, but get it done.

Dr. KITSOS. I think that is possible, Senator. Our concern is to make sure that the States' rights are protected under the CZMA, but that there is a way to do this expeditiously.

Senator SNOWE. I could not agree with you more.

Yes, Senator Nelson, any final questions?

Senator NELSON. Dr. Kitsos, in your prepared testimony you note that CMZA—CZMA has been successful and that States have concurred with 95 percent of the Federal actions reviewed. Do you think the Secretary of Commerce has done a good job balancing the Nation's interests with the coastal States' management programs in the appeals process?

Dr. KITSOS. I think the Secretaries of Commerce throughout the years have done a wonderful job, Senator, in balancing.

Senator NELSON. So you do not think that taking this responsibility away from the Secretary of Commerce to give to the Secretary of the Interior is a good idea, do you?

Dr. KITSOS. We believe that the Secretary of Commerce should retain the appeal authority under the original legislation that has been supported for about 33 years by the Congress. The CZMA program is a Department of Commerce NOAA program and, as I indicated in my earlier response, the basis of decisions about appeals are particular to the question of—the principles and the purposes

and the policies of coastal zone management. Giving that authority to other secretaries would lose expertise in the history of the development of the CZM program in the Department of Commerce. We believe that an objective third party like the Secretary of Commerce should be making that decision on appeals that come to him or her.

I would note, though, that many appeals do not come. They are worked out ahead of time, and those that are eventually—most consistency issues are resolved without having to appeal.

Senator NELSON. So you believe that a consistency provision, a Federal consistency provision, is an important part of the CZMA and it is an important tool for States to manage their coastlines?

Dr. KITSOS. It is an extremely important tool for the States. I believe CSO would support that statement. CZMA is basically a program that gives States—is a voluntary program that encourages States to participate based on two things. One is a modest amount of money to carry out their program. Second is the authority they get under Federal consistency.

As a result, almost all States now are participants.

Senator NELSON. You would testify that the Federal consistency provision is an important tool because it allows for broad definition on what effects on land, water, natural resources triggers the CZMA consistency determination; is that correct?

Dr. KITSOS. It gives States the opportunity to declare to Federal agencies who are about to take an action or issue a permit or a license that the actions are consistent or are not consistent with the enforceable policies of a State program. That has been a basic principle of CZMA from the very beginning. We think it is important.

Senator NELSON. And effects are not just environmental, but also involve effects on coastal uses; is that correct?

Dr. KITSOS. That is correct.

Senator NELSON. And indirect effects as well as direct effects that are reasonably foreseeable trigger consistency determinations; is that correct?

Dr. KITSOS. That is also correct, and that is based on amendments made in 1990 to the CZMA to clarify that issue. What you have just said is correct.

Senator NELSON. Then is it true that limiting the geographic scope of a State's Federal consistency jurisdiction would weaken a State's current ability under the consistency provision?

Dr. KITSOS. Well, this is a very tricky issue, Senator. There are safeguards in NOAA's current regulations that would constrain a State from going too far afield from making consistency claims. But Congress did make it clear in 1990 that the effects test is the basis on which consistency should be triggered, and an action, no matter where it may occur, if it affects the land and water use and the natural resources of the coastal zone, is subject to the consistency review of that State. That has been a principle that has been in effect for a long time, the subject of the rulemaking by NOAA in 2000, and also the basis on which the current negotiations for a change to the rule is based.

Senator NELSON. You and I were a member of the House when we passed that 1990 act.

Senator SNOWE. That is right. Yes, a few years ago.

The CHAIRMAN. If I could enter into that just one comment, I was a member over here, too. But our understanding was just what Dr. Kitsos just said, that we would not have a situation where Rhode Island or Massachusetts could have an input in what happened off Maine.

Dr. KITSOS. Well, there is an interstate consistency regulation that NOAA had promulgated some years ago for dealing with activities in the coastal zone of one State vis-à-vis the coastal zone of another State. That is part of the development of the rules and regulations.

There is also additionally the issue of the effects of activities in Federal waters and that is the consistency issue, Senator. That is the 1990 amendments that I referred to before, and if there is an effect—if there is activity off of State A that has an effect on the land and water uses of State B in their coastal zone, State B would have some authority to exercise consistency.

There are details that I would like to provide you for the record that constrain that to some extent. States have to declare geographic locations where activities are subject to consistency, but the basic principle of where is the effect still obtains.

Senator NELSON. Madam Chairman, as a follow-up to that, therefore, on the basis of what you just said, if the State of Louisiana or the State of Mississippi or Alabama were to redraw their lines as to the oil and gas drilling so that in fact it was off the coast of Florida—

The CHAIRMAN. How far off?

Senator NELSON.—therefore that would have or trigger the consistency requirement of State A and B that you just outlined?

Dr. KITSOS. I do not think the States of Louisiana and Alabama could redraw their lines.

Senator NELSON. Well, they are going to try tomorrow in the Energy Committee.

The CHAIRMAN. Again, how far are you talking about?

Senator NELSON. We will see how they draw the lines.

The CHAIRMAN. How far off the shore does Florida claim?

Senator NELSON. I think what you are going to see is the prohibition that has been worked out between the Federal Government and the Governor of Florida on Lease Sale 181, that was 6 million acres proposed for lease and the Governor of Florida got into it and constricted it back to 1.5 million acres so that it was off of Alabama, not off of Florida, I think you are going to see that attempted to be redrawn tomorrow in the Senate Energy Committee by Senator Landrieu's amendment.

Senator SNOWE. Just a couple points and then Senator Lautenberg is here.

On these limits on this Federal appeals process and the consistency and the comment period, I have heard in some cases—I do not know if it was in the House legislation—that these limits would be retroactive, applying to appeals made before and after enactment of the legislation.

Dr. KITSOS. I am not familiar with all the details in H.R.—

Senator SNOWE. How onerous would that be, above and beyond everything else, to limit the comment period? And to make it retroactive to other appeals?

Dr. KITSOS. I think that would be a difficult process for the Department to adhere to.

Senator SNOWE. One other question. On the effects test, is it clarifying what activities trigger consistency? Has that been a hindrance at all in this process?

Dr. KITSOS. Well, I think you may hear some witnesses following us that will argue that it has not been very helpful. On behalf of the Department, I think it helped to clarify what activities trigger consistency. Prior to 1990 there was a phrase in the law that said "activities that directly affect the coastal zone" and that was subject to some dispute. That helped clarify that, the 1990 amendments helped clarify that particular issue.

Senator SNOWE. Thank you.

Senator Lautenberg.

**STATEMENT OF HON. FRANK R. LAUTENBERG,
U.S. SENATOR FROM NEW JERSEY**

Senator LAUTENBERG. Thanks, Madam Chairman. I am going to use my time to just make my statement and I assume that the record will be kept open long enough for us to submit questions in writing. I thank you for holding this hearing.

People might not think that Maine and New Jersey have much in common. Apparently Louisiana and Florida and Alabama have a lot in common when it comes to getting out there and poking holes in the seabase, looking for oil, et cetera.

We insist that proper management of the coastal area is vitally important. I know that it is in Maine and so it is in New Jersey. Coastal areas for us provide economic activity, jobs from tourism to fishing, and our shore accounts for 70 percent of my State's \$30 billion tourist industry. The U.S. Commission on Ocean Policy estimates that economic activity in our Nation's oceans and along our coastline accounts for \$1 trillion a year and that is 10 percent of our Nation's GDP.

Coastal economies are booming. Try and get your car through some of these communities and you will find out how booming it is. The population is skyrocketing in our coastal areas. Over the next 7 years, population growth in my State, the most densely populated State in the Union, in four coastal counties is projected to be about 44 percent greater than the State as a whole.

This coastal population explosion is not unique to New Jersey. 54 percent of all Americans now live in 772 coastal counties adjacent to our Nation's shorelines. In 20 years nearly 75 percent of Americans are expected to live in coastal counties. As our population becomes more concentrated along the coastlines, we exert new pressures on our fragile coastal environment and our resources. Almost every day we hear now of strange algae blooms in our bays, our fish kills, our houses plunging into the sea from an eroding beach.

So I do not think Congress has any option but to strengthen the Coastal Zone Management Act. The act has played an important role in protecting our coastlines. In my State, for example, it has enabled the development of the Jacques Cousteau National Estuarine Research Reserve System, which has been extremely productive in terms of coastal research and monitoring the coastal environment.

So Senator Snowe's CZMA reauthorization bill increases funding for coastal management plans and I applaud that. I also hope that the funding formula will be revised to reflect coastal population growth. We have got to protect the rights of States regarding what happens in their offshore areas, especially in the outer continental shelf.

So, Madam Chairman, I thank you for holding the hearing and I look forward to hearing the panel.

[The prepared statement of Senator Lautenberg follows:]

PREPARED STATEMENT OF HON. FRANK R. LAUTENBERG,
U.S. SENATOR FROM NEW JERSEY

Madame Chairman, thank you for convening this hearing on this important issue. While people might not normally think that Maine and New Jersey have much in common, we realize that the proper management of coastal areas is vitally important to both our home states.

Coastal areas provide economic activity and jobs, from tourism to fishing to trade. The *New Jersey shore* accounts for 70 percent of my state's \$30 billion dollar tourism industry.

The U.S. Commission on Ocean Policy estimates that economic activity in our nation's oceans and along our coastlines accounts for one trillion dollars a year—*ten percent of our nation's GDP*. Coastal economies are booming—and the population in our coastal areas is *skyrocketing*. Over the next seven years, population growth in New Jersey's four coastal counties is projected to be about *44 percent greater* than in the state as a whole.

This coastal population explosion is *not unique* to New Jersey. *Fifty-four percent* of all Americans now live in 772 coastal counties adjacent to our nation's shorelines. In 20 years, *nearly 75 percent* of Americans are expected to live in coastal counties.

As our population becomes more concentrated along our coastlines, we exert new pressures on our fragile coastal environment and resources. Almost every day we hear of strange algae blooms in our bays, or fish kills, or houses plunging into the sea from an eroding beach.

I believe Congress has no option but to *strengthen* the Coastal Zone Management Act (CZMA). The CZMA has played an important role in protecting our coastlines. In my state, for example, it has enabled the development of the Jacques Cousteau National Estuarine Research Reserve system, which has been *extremely productive* in terms of coastal research and monitoring the coastal *environment*.

Senator Snowe's CZMA reauthorization bill increases funding for coastal zone management plans, which I applaud. I also hope that the funding *formula* will be revised to reflect coastal population growth. We also must *protect* the *rights* of *states* regarding what happens in their offshore areas, especially the outer continental shelf.

Thank you Madame Chairman. I look forward to the testimony.

Senator SNOWE. I thank you, Senator Lautenberg, and thank you as well for supporting the legislation. I appreciate it.

I also thank the witnesses. Our debate and discussion on these issues will continue. We appreciate your input. We will be following up on many of these issues that ultimately could determine whether or not we can get this reauthorized as we continue. I thank you.

Ms. COOKSEY. Thank you for inviting us.

Senator SNOWE. Thank you.

Our second panel: Ms. Sarah Chasis, Director of the Natural Resources Defense Council Water and Coastal Program; Tom Fry, President of the National Ocean Industries Association; Mr. Bill Jeffress, Director of the Office of Project Management and Permitting in the Alaska Department of Natural Resources; and Dr. Don Hudson, Chair-elect of the Gulf of Maine Council on the Marine Environment. Welcome.

I welcome all of our panelists and I would ask you to summarize your statements. We will include your entire statement in the record, and we will begin with you, Ms. Chasis. Thank you for being here.

**STATEMENT OF SARAH CHASIS, DIRECTOR,
WATER AND COASTAL PROGRAM,
NATURAL RESOURCES DEFENSE COUNCIL**

Ms. CHASIS. Thank you very much, Senator Snowe, and thank you also to Senator Stevens and Senator Lautenberg. We know how incredibly busy you all are and we very much appreciate your taking the time to hold this hearing and consider reauthorization of the Coastal Zone Management Act.

I am testifying on behalf of NRDC, the Natural Resources Defense Council, today. NRDC is very supportive of your bill, Senator Snowe, S. 360. We think it is important for this committee to reauthorize and strengthen the CZMA, as that bill would do. We are seeing increasing pressures on our Nation's coastal resources and the CZMA provides a valuable framework for addressing both ongoing and emerging issues facing the coastal regions of the country.

The Federal Government provides funding, oversight, and the promise of Federal consistency. In exchange, the States voluntarily develop and implement Federally approved programs that address important issues facing the coastal zone, an area of recognized national importance both ecologically and economically.

The Pew Ocean Commission, on which NRDC's President John Adams served and on which Pat White from your State, Senator Snowe, also served, a lobster fisherman, recognized the importance of the CZMA and recommended that the act be expanded to encourage coastal habitat protection and more active State and local growth management efforts. We are pleased to see that S. 360 responds to both of these recommendations.

The U.S. Commission on Ocean Policy recommended that Congress reauthorize the CZMA to strengthen the planning and coordination capabilities of the States and enable them to incorporate a coastal watershed focus and more effectively manage growth. Again, S. 360 would address many of these recommendations.

The President's U.S. Ocean Action Plan also states its support for reauthorization of the CZMA.

The CHAIRMAN. Would you pull that mike up just a little?

Ms. CHASIS. Sorry, Senator Stevens. You cannot hear me? I will try to speak more loudly.

I would like to turn my brief oral remarks to concerns we have with various legislative proposals not included in S. 360 that are currently under consideration by Congress and that, if adopted, would substantially weaken a key element of the CZMA, the Federal consistency requirements. It is noteworthy that neither the Pew Oceans Commission nor the U.S. Commission on Ocean Policy recommended altering the Federal consistency provisions of the CZMA. Indeed, the U.S. Commission specifically said, "Existing incentives for State participation, Federal funding and Federal consistency authority, should remain."

The National Governors Association recently took a strong stand in support of retaining the current Federal consistency provisions,

and in their revised policy statement they said the following: “The Governors oppose any legislation or rulemaking that might weaken the CZMA requirements for coordination and consistency, such as limiting the geographic scope of the States’ Federal consistency jurisdiction, limiting the ability to receive and analyze adequate environmental data and information, or limiting the development of the appeals record in a manner that would place States at a disadvantage or discourage negotiated resolution of appeals.”

Yet many of the legislative proposals would do exactly this. They would limit the geographic scope of the States’ Federal consistency jurisdiction, for example by taking away the rights of States to consistency review for lease sales more than 20 miles from the State’s coastal zone. They would limit the ability to receive and analyze adequate environmental data or information, for example by putting FERC in charge of setting a mandatory timetable for completion of all Federal and State reviews, including consistency reviews, and giving one agency, such as FERC, the exclusive charge of compiling a single administrative record for all Federal and State decisions.

They would limit the development of the appeals record in a manner that would place States at a disadvantage or discourage negotiated resolution of appeals, for example by setting unreasonable timeframes that may preclude consideration of relevant environmental information in environmental impact statements or in biological opinions under the Endangered Species Act.

According to NOAA, in the history of the CZMA there have been only 14 instances where the oil and gas industry appealed a State’s Federal consistency objection to the Secretary of Commerce and the Secretary issued a decision. Of these 14 cases, there were 7 decisions to override the State’s objections, 7 decisions not to override.

According to NOAA, and I quote: “The record shows that energy development continues to occur while reasonable State review ensures that the CZMA objectives have been met.”

We oppose legislation that would weaken the consistency provisions of the CZMA and urge members of this committee to ensure that such legislation is not enacted.

Thank you very much and I would be happy to entertain questions.

[The prepared statement of Ms. Chasis follows:]

PREPARED STATEMENT OF SARAH CHASIS, DIRECTOR, WATER AND COASTAL PROGRAM,
NATURAL RESOURCES DEFENSE COUNCIL

Thank you for this invitation to testify regarding S. 360, the “Coastal Zone Enhancement Reauthorization Act of 2005.” This testimony is submitted on behalf of the Natural Resources Defense Council (NRDC). NRDC is a national nonprofit organization with over 550,000 members, dedicated to protecting natural resources and improving the quality of the human environment. I am a senior attorney with NRDC and Director of NRDC’s Water and Coastal Program.

Introduction: Support for S. 360

NRDC has been involved with the Coastal Zone Management Act (CZMA) since the mid-1970s. During this time, we have worked with NOAA, the states and other environmental groups on the development and implementation of state coastal zone management programs. We have supported reauthorization and strengthening of the Act. Following the 1990 amendments to the CZMA, we participated in the implementation of the Coastal Nonpoint Pollution Control Program—because of the

need for enhanced control over polluted runoff into coastal waters—and in the revision of the Federal consistency regulations to conform to the 1990 amendments.

NRDC strongly supports passage of S. 360. This bill would reauthorize and strengthen the CZMA at a time of increasing pressure on our nation's coastal resources. The CZMA provides a valuable framework for addressing both ongoing and emerging issues facing the coastal regions of our country. The Act represents a valuable partnership between the Federal Government and the states: the Federal Government provides funding, oversight and the promise of Federal consistency; in exchange, the states voluntarily develop and implement Federally approved programs that address important issues facing the coastal zone—an area of national importance, both ecologically and economically. We believe continuation of this partnership is important to the Nation and that the Act should be reauthorized.

Two Ocean Commissions and the President's U.S. Ocean Action Plan all Support Reauthorization of the CZMA

The Pew Oceans Commission (*America's Living Oceans: Charting a Course for Sea Change*, May 2003), the U.S. Commission on Ocean Policy (*An Ocean Blueprint for the 21st Century*, September 2004) and the President (*U.S. Ocean Action Plan*) all have supported reauthorization of the CZMA.

The Pew Ocean Commission, on which NRDC's President John Adams served, recognized the importance of the CZMA and recommended that the Act be expanded to include a mandate for coastal habitat protection. POC Report at 118–119. The Commission also recommended encouraging more active state and local growth-management efforts, as well as coordination of efforts among local jurisdictions and adjacent states to ensure a rational regional approach. POC Report at 119. S. 360 responds to both of these recommendations. It encourages a focus on coastal habitat protection and restoration in Section 8 of the bill (amending Section 306A, the Coastal Resource Improvement Program). In Section 11, S. 360 establishes a whole new program (Section 309A of the CZMA) to provide coastal community grants to encourage state and local communities to, among other things, assess and manage growth, public infrastructure and open space needs in order to provide for sustainable growth, resource protection and community revitalization.

The U.S. Commission on Ocean Policy recommended that Congress reauthorize the CZMA to strengthen the planning and coordination capabilities of the states and enable them to incorporate a coastal watershed focus and more effectively manage growth. To this end, the U.S. Commission recommended including requirements for periodic resource assessments by each state, the development by each state of measurable goals and performance standards, improved program evaluations to measure state progress against these goals and standards, incentives for good performance and disincentives for inaction and expansion of state boundaries to include coastal watersheds. U.S. COP Report at 154–155. The Commission also recommended amending the Act to provide better financial, technical, and institutional support for watershed management activities. U.S. COP Report at 160. S. 360 responds to some, though not all, of these recommendations. It would be worthwhile for this Committee to consider incorporating more of these recommendations in S. 360.

The President's *U.S. Ocean Action Plan* also states its support for reauthorization of the CZMA. Plan at 27.

Additional Comments on S. 360

We are generally supportive of language that encourages states to devote a meaningful portion of their CZM money to curbing polluted runoff into coastal waters. In the past, we have supported having a specific percentage of the Section 306/306A/309 grant money spent on implementation of the Coastal Nonpoint Pollution Program in order to achieve needed progress in addressing water quality. We regret that there is nothing requiring this in S. 380. However, we do note and are supportive of language in Section 17 of S. 380 that would ensure that at least a portion of the new coastal community grants is spent on implementation of approved coastal nonpoint pollution control strategies and measures. (We recommend that it should be made clear that a state may spend more on these strategies should it so desire.) We strongly recommend that more money be provided to the states for implementation of the important Coastal Nonpoint Pollution Control Program.

Concerns With Respect to Other Legislation

We are very concerned about various legislative proposals—not included in S. 360—that are currently under consideration that, if adopted, would substantially weaken a key element of the CZMA, the Federal consistency requirements. There are various proposals now before Congress to modify the Federal consistency appeals process and/or to limit the geographic scope of the consistency requirement (see, for example, S. 726 and H.R. 6).

It is noteworthy that neither the Pew Ocean Commission nor the U.S. Commission on Ocean Policy recommended altering the Federal consistency provisions of the CZMA. Indeed, the U.S. Commission specifically said: "Existing incentives for state participation—Federal funding and Federal consistency authority—should remain*." U.S. COP Report at 155.

The National Governors Association (NGA) recently took a strong stand in support of retaining the current Federal consistency provisions. NGA's recently revised ocean-related policy *Ocean and Coastal Zone Management* (transmitted to the Chairman and Ranking Member of this Committee on March 18, 2005) states that:

"The Governors urge Congress to retain all provisions of the act that ensure all Federal activities within or outside the coastal zone that may affect the coastal zone are subject to the consistency review process. The Governors firmly believe that all Federal actions in the coastal zone—or affecting any natural resources, land uses, or water uses in the coastal zone—should be fully consistent with approved coastal zone management plans. Consultation with states should begin early in the permitting and environmental impact assessment process. The Governors oppose any legislation or rulemaking that might weaken the CZMA requirements for coordination and consistency, such as:

- limiting the geographic scope of the states' Federal consistency jurisdiction;
- limiting the ability to receive and analyze adequate environmental data and information; or
- limiting the development of the appeals record in a manner that would place states at a disadvantage or discourage negotiated resolution of appeals."

NGA *Ocean and Coastal Zone Management* Policy Position 10.4.3. (Emphasis added).

Yet many of the legislative proposals would do exactly what the Governors oppose: limit the geographic scope of the states' Federal consistency jurisdiction (for example, by taking away the rights of states to consistency review for lease sales more than 20 miles from the state's coastal zone); limit the ability to receive and analyze adequate environmental data or information (for example, by putting FERC in charge of setting the mandatory timetable for completion of all Federal and state reviews, including consistency reviews, and giving one agency, such as FERC or MMS, the exclusive charge of compiling a single administrative record for all Federal and state decisions); and limit the development of the appeals record in a manner that would place states at a disadvantage or discourage negotiated resolution of appeals (for example, by setting unreasonable timeframes for appeal decisions that may preclude consideration of relevant environmental information in EIS's or Biological Opinions under the Endangered Species Act, or putting FERC in charge of compiling the record).

According to NOAA, in the history of the CZMA, there have been only 14 instances where the oil and gas industry appealed a State's Federal Consistency objection to the Secretary of Commerce and the Secretary issued a decision. Of these 14 cases, there were 7 decisions to override the State's objection, 7 decisions not to override the State. "The record shows that energy development continues to occur, while reasonable State review ensures that the CZMA objectives have been met." See 67 Federal Register 44409 (July 2, 2002).

We strongly oppose legislation that would weaken the consistency provisions of the CZMA.

Thank you for this opportunity to testify. I would be happy to answer any questions that you may have.

Senator SNOWE. Thank you.
Mr. Fry.

STATEMENT OF TOM FRY, PRESIDENT, NATIONAL OCEAN INDUSTRIES ASSOCIATION

Mr. FRY. Thank you very much, Madam Chairman. It is a pleasure to be back with you again. Senator Stevens, nice to be with you, and Senator Lautenberg. Thank you all for being here.

My name is Tom Fry. I am the President of the National Ocean Industries Association. I am here on behalf of that association. In addition, I am here on behalf of the American Petroleum Institute, the Domestic Petroleum Council, the Independent Petroleum Asso-

ciation of America, the International Association of Drilling Contractors, the Natural Gas Supply Association, and the U.S. Oil and Gas Association. I think I am out of time now.

[Laughter.]

Mr. FRY. What that group is is all of the trade associations who represent folks in the oil and gas industry. Our association is uniquely positioned to talk about offshore in that our membership is made up of people who work only in the offshore. It is not only producing companies; the drilling contractors, the service companies, construction companies, shippers, the geophysical companies, supply companies, and even professionals, lawyers and accountants. So I am here today on behalf of all of those different groups.

First, Madam Chairman, I would like to say that we do support the Coastal Zone Management Act. The tenets of the act, to support a healthy and vibrant coastal zone, are very important to us and dovetail very nicely with our desire to produce energy for the Nation in a safe and environmental way. However, there have been a few—we think—unintended consequences of the Act. Outlined in my testimony are some technical changes that we think would help improve the ability of the Act to respond to the needs of the country, both the States and the needs of the country from an energy standpoint.

As has been mentioned before in this hearing, there has been a lot of talk about the number of appeals that have taken place in the past. We readily acknowledge that in most cases the consistency provisions work very well in those States where oil and gas activity already occurs. We also are not here today to argue about whether or not the Secretary of Commerce or Interior or whoever makes the final decision, what decision they should make on coastal zone management appeals. That is a decision that has to be made by those individuals.

What we are asking for is some certainty to the process. We would like to have the process come to a conclusion. As has been pointed out, there is legislation that talks about a certain number of days. There is proposed legislation talking about the certain number of days. The problem has been that the record never closes and so we never get to those days running. Or if those days are running, somebody puts a stop on those days running, saying we need additional information.

That is what has prevented decisions from being made. It has run across administrations. The last appeal sat in the Clinton Administration and in the Bush Administration for over 50 months with neither Secretary making a decision and the case finally needing to be settled. The reason it was able to sit there is because they kept saying—people kept saying, we need more information. We need to bring these matters to a conclusion.

Companies who invest millions of dollars in lease sales that have been offered by the Federal Government, spend millions more to develop those leases that they have paid money for, deserve the opportunity to have a process wherein they can come to a final conclusion about—come to a final conclusion and decisions be made about consistency.

Now, I want to also make it clear that it has never been our intention to cut the States out of this process. I think there has been

a lot of discussion that we are trying to have the States not be a part of the consistency process. Let me go through all the times the States are involved. The States are involved in the planning of the 5-year plan. The States are involved in the planning for lease sales. The States are involved on a consistency basis with the exploration plans, drilling plans, and development plans.

We are not asking for any of that to go away. We are only asking that when the appeals come forward to the Secretary that there be some end game in mind about how to make that happen.

We would also request that the five or more Federal agencies begin to work more closely together so that we can have a single consistency certification for each project. Right now you may have as many as three, four, or five that have to go through consistency review. It means that all the parties are having to do duplicative work and I think it just makes good sense and really argues for better government.

We would also suggest that those who are best able, those who are most knowledgeable about processes and how processes work, in whatever area it is, be those people who set the standards for appeals and be those people who make those determinations.

So if I could reiterate one more time, Madam Chairwoman, we really feel strongly that the Coastal Zone Management Act can work, it can work very well, and we would just like to find a way to bring some certainty to the process.

Thank you so much for your time. We look forward to your questions.

[The prepared statement of Mr. Fry follows:]

PREPARED STATEMENT OF TOM FRY, PRESIDENT,
NATIONAL OCEAN INDUSTRIES ASSOCIATION

Madam Chairwoman and members of the Committee, I appreciate the opportunity to testify here today on S. 360, the Coastal Zone Enhancement Reauthorization Act of 2005. I serve as President of the National Ocean Industries Association (NOIA). NOIA is the only national trade association representing all segments of the offshore energy industry. The NOIA membership comprises more than 300 companies engaged in activities ranging from producing to drilling, engineering to marine and air transport, offshore construction to equipment installation, manufacture and supply, and geophysical surveying to diving.

This testimony is submitted on behalf of NOIA, the American Petroleum Institute, the Domestic Petroleum Council, the Independent Petroleum Association of America, the International Association of Drilling Contractors, the Natural Gas Supply Association, and the U.S. Oil and Gas Association. Our seven national trade associations represent thousands of companies, both majors and independents, engaged in all sectors of the U.S. oil and natural gas industry.

While our industry supports the Coastal Zone Management Act's (CZMA) stated purpose of balancing the often competing and conflicting demands of coastal resource use, economic development, and conservation through cooperative partnerships among Federal, state and local governments, we do not believe that the current statute is meeting that goal. Instead, the current implementation of the CZMA has produced regulatory uncertainty and unreasonably impeded outer continental shelf exploration and production projects, as well as the siting of offshore energy infrastructure. Therefore, while we support a reauthorization of the Act, we could not support S. 360 unless it was amended to clarify the CZMA and correct the implementation deficiencies.

CZMA Implementation Affects U.S. Energy Production

It is important to consider the implementation of the CZMA in the context of the overall energy challenges facing our nation. Energy demand is on the rise. The U.S. economy currently requires 20 million barrels of oil and 63 billion cubic feet of natural gas every day, according to the Energy Information Administration's Annual

Energy Outlook 2005, and these numbers are expected to increase in coming years. Without a concurrent increase in supply, this situation is unsustainable and could lead to serious economic repercussions for both consumers and industries dependent on natural gas and oil—industries as diverse as automobiles, chemicals, electricity generation, airplane fuel, agricultural fertilizers, clothing manufacturing, and plywood production.

Addressing regulatory inefficiencies that hinder or stall the development of a significant portion of our domestic energy resources is one achievable step toward increasing domestic supply and meeting our nation's energy needs.

The issues associated with the coastal zone management process represent a significant threat to the energy industry's ability to explore for and produce offshore oil and natural gas, and consequently present a substantial impediment to the development of domestic energy supplies. Failure to make the necessary changes to the CZMA will continue to contribute to the supply-demand imbalance, increased reliance on foreign sources of energy, and the shifting overseas of thousands of jobs and billions of dollars in U.S. revenue.

It is for these reasons that we strongly urge the Committee to clarify the CZMA and correct the implementation deficiencies. Overlapping jurisdiction of multiple government agencies, coupled with conflicting Federal laws (or conflicting interpretations of these statutes) have resulted in serious problems with the coastal zone management process. Companies trying to find and develop offshore energy resources frequently encounter duplicative requirements that result in costly delays in the regulatory process, even when these activities would not adversely impact states' coastal zones. As noted in the President's National Energy Policy Report, delays and uncertainties of the CZMA can hinder proper energy exploration and production projects.

Proposed Amendments to the Coastal Zone Management Act

In order to allow the CZMA to achieve its intended purpose without hindering the Nation's energy development, we strongly urge the Committee to consider the following technical amendments to the CZMA in S. 360:

(1) Amend the definition of "enforceable policy" in 16 U.S.C. § 1453(6a) to limit a state's CZMA consistency review to activities occurring within its own boundaries or offshore its own state. The CZMA was intended to grant a state the right to conduct a consistency review of Federal licenses and permits within the territorial boundaries of that state. However, the statute has been implemented to allow states to review activities and block permits for activities taking place offshore other states. This amendment would still allow states to conduct a consistency review for all licenses and permits within its boundaries and off its own shore, but would stop states from interfering with the actions of other states within the other states' boundaries or off the other states' shores.

(2) Amend 16 U.S.C. § 1456(c)(3)(B) to allow a single consistency certification for an outer continental shelf plan to cover all activities, including air and water permits. The energy industry has experienced inordinate delays due to the lack of coordination between Federal agencies in processing permits for outer continental shelf activities, especially involving separate state consistency reviews for the multiple permits that are required. This consolidated process would increase the efficiency of state consistency reviews for outer continental shelf plans by achieving a single consistency certification for all related permitted activities, including air and water discharges, conducted pursuant to either an exploration plan, or a plan of development and production.

(3) Amend 16 U.S.C. § 1456(c)(3)(B) to grant the Secretary of the Interior the authority to determine information requirements for consistency certifications. Some states have used findings of "lack of information" to deny consistency certifications and obstruct outer continental shelf activity. The Secretary of the Interior has adopted detailed information requirements for outer continental shelf plans and specific Outer Continental Shelf Lands Act requirements for the Department of the Interior's consultation with state coastal zone authorities regarding areas of particular state concern. The Secretary is therefore in the best position to conduct an analysis of the information requirements.

(4) Amend 16 U.S.C. § 1456(c)(3)(B)(iii) to provide the Secretary of the Interior with the authority to override state appeals concerning OCS activities. The Department of the Interior's expertise regarding outer continental shelf plans and their impacts make the Interior Secretary, as opposed to the Commerce Secretary, uniquely suited to implement the law in this area.

(5) Amend 16 U.S.C. § 1465 to ensure timely decisions by the Secretary to override appeals. CZMA appeals continue to be drawn out by overlong agency commenting, and by the Commerce Department's implementation of the requirement that the

deadline for decision-making does not begin to run until after the administrative record is closed. This amendment is needed to institute a definite deadline that is only governed by when the appeal is filed. The need for predictability in these override decisions mandates a preordained time for review; otherwise, continuing abuse will be endemic to the decisional process.

Conclusion

We support the goals and intent of the Coastal Zone Management Act, and believe that the technical amendments discussed here would improve the implementation of the statute by streamlining the review process while preserving states' rights. I appreciate your consideration of our concerns regarding S. 360, and I will be happy to answer any questions.

Senator SNOWE. Thank you, Mr. Fry. Thank you.
Dr. Hudson from Maine. Thank you for being here.

STATEMENT OF W. DONALD HUDSON, JR., PH.D., PRESIDENT, CHEWONKI FOUNDATION; MAINE GOVERNOR BALDACC'S NON-GOVERNMENTAL APPOINTEE TO THE GULF OF MAINE COUNCIL ON THE MARINE ENVIRONMENT; PRESIDENT, U.S. GULF OF MAINE ASSOCIATION; AND TREASURER, NATIONAL MARINE EDUCATORS ASSOCIATION

Dr. HUDSON. Thank you. Chairman Stevens, Senator Snowe, Senator Lautenberg: Thanks for the opportunity to speak this morning. My name is Don Hudson and I am President of the Chewonki Foundation, a nonprofit educational institution that has for 90 years introduced thousands of people to the wonders of the Maine coast and its watersheds.

However, today I am testifying in my capacity as Maine's public sector representative to the Gulf of Maine Council on the Marine Environment. The council is a U.S.-Canadian partnership working to maintain and enhance environmental quality in the Gulf of Maine, one of the world's most biologically productive environments, to allow for sustainable resource use by existing and future generations.

The coastal zone is the dominant natural and economic feature of Maine, whether it is the need for water access, the need for infrastructure and sustainable development plans, or the need to permanently protect critical coastal habitats. Coastal management needs have outstripped our capacity to keep pace. The first phase of coastal zone management successfully established core policies and environmental laws and supported a network of National Estuarine Research Reserves, including one in Wells. The next wave of coastal management needs to support the use of new tools and technology, innovative development practices, more effective education programs, and more focused land conservation and restoration programs to achieve national goals for a healthy coast and a robust coastal economy. A reauthorized Coastal Zone Management Act will represent this second wave of effective management in partnership with States and local communities.

I would like to touch briefly on five aspects of S. 360 and then address the topic of regional ecosystem-based management. To begin, S. 360 includes an important new focus with the coastal communities program. Maine has 136 municipalities in its coastal zone, plus two tribes, several unorganized territories, and more than 5,000 islands. Through current CZM-funded programs combined with State resources, Maine helps towns with grants and tar-

geted technical assistance and training. CZMA funds support Maine's working waterfront initiative, which helps more than 90 partner organizations retain critical small harbors for use by businesses. CZMA funds also support a local grants program, a new technical assistance website, and direct assistance for land acquisition. An enhanced coastal communities program would continue this innovative work.

Second, S. 360 strengthens the role of the Coastal Zone Management Act in coastal habitat restoration. Through the use of CZMA funds, other Federal resources, State contributions, and local match, Maine completed five significant habitat restoration projects last year, forged a landmark agreement to restore fisheries on the Penobscot River, and assisted 30 municipalities with habitat protection strategies. In Sagadahoc County, near where I work, 12 towns are collaborating on an innovative regional habitat and open space conservation effort. There are nine other regions in coastal Maine where such a landscape-scale approach could also be deployed.

Third, S. 360 clarifies that States can use CZM funds to implement coastal non-point pollution control programs. While this clarification is useful, authorization levels should reflect an additional \$10 million for States to use to be effective. Maine is typical of other coastal States in that non-point source pollution represents more than 80 percent of the remaining sources of pollution entering coastal waters. As a participant in a local monitoring program, I know that this is ongoing hard work. Maine was able to partner with the Maine Marine Trades Association to launch a clean marinas initiative, the only one in the Nation housed at a business trade organization, through a modest investment of \$50,000 leveraged by local resources. Five new marinas gained clean certification last year. Without new coastal non-point funds, this fledgling program will not operate beyond June 2006.

Fourth, Maine has just submitted its draft coastal and estuarine land conservation plan, anticipating that an amended S. 360 or a separate bill might formalize the Coastal and Estuarine Land Conservation Program. Our planning effort has been inclusive and identifies critical types of coastal lands that are most threatened. Over the last 18 years, the Land for Maine's Future program has invested more than \$21 million for 75 projects in Maine's coastal zone, helping to protect almost 26,000 acres to address a variety of needs, and to secure public access to the shore. A source of Federal matching funds could greatly increase the pace and quality of coastal conservation in Maine and the Nation.

The fifth area of S. 360 of interest to me is the coastal training program at the National Estuarine Research Reserves and other innovative programs that bring teachers, students, and decision-makers more directly into contact with the habitats and ecosystems of coastal watersheds. Sound management practices will never succeed unless the public understands and embraces them, and the educational efforts of the reserve system and their many partners are essential ingredients for success.

The Maine Coastal Program has a vision that includes a state-wide network of coastal training programs that would function as

centers of learning and provide a home for a variety of citizen stewardship programs.

Finally, over the last 15 years CZM and other Federal funds, combined with State resources, have provided the seed money that has established collaborative transboundary management of the Gulf of Maine. The Governors and premiers of the five Gulf jurisdictions—Massachusetts, New Hampshire, Maine, New Brunswick, and Nova Scotia—created the council in 1989 as a regional forum to exchange information and engage in long-term planning. The council has no ongoing dedicated support.

The U.S. Ocean Commission recognized the Gulf of Maine Council's model approach. In response to the U.S. Ocean Commission report and President Bush's Ocean Action Plan, the CZMA could be further strengthened to support regional ocean governance. Maine's Governor John Baldacci has stated in his comments to the U.S. Ocean Commission he places a high priority on building a more robust regional governance model using the council, the Gulf of Maine Ocean Observing System, and other framework elements currently in place.

The timing is perfect as our Canadian partners are developing their ocean action strategy and establishing large ocean management areas. While we are well poised for exciting ecosystem-based management work, we need Congressional support and the CZMA is one place Congress might invest to support this work.

Thanks for the opportunity and I look forward to answering any questions.

[The prepared statement of Dr. Hudson follows:]

PREPARED STATEMENT OF W. DONALD HUDSON, JR., PH.D., PRESIDENT, CHEWONKI FOUNDATION; MAINE GOVERNOR BALDACCIO'S NON-GOVERNMENTAL APPOINTEE TO THE GULF OF MAINE COUNCIL ON THE MARINE ENVIRONMENT; PRESIDENT, U.S. GULF OF MAINE ASSOCIATION; AND TREASURER, NATIONAL MARINE EDUCATORS ASSOCIATION

Introduction

Chairman Stevens, Ranking Member Inouye, Senator Snowe and other distinguished Members of the Committee, I want to thank you for the opportunity to offer testimony today regarding S. 360, the Coastal Zone Enhancement Reauthorization Act of 2005.

My name is Donald Hudson and I am President of the Chewonki Foundation, a non profit environmental education institution that has, for ninety years, introduced thousands of Maine's youth and adults to the wonders of the Maine coast and its watersheds. However today I am testifying in my capacity as Maine Governor John Baldacci's non-government representative to the Gulf of Maine Council on the Marine Environment. The Council is a U.S.-Canadian partnership of government and non-government organizations working to maintain and enhance environmental quality in the Gulf of Maine—one of the world's most biologically productive environments—to allow for sustainable resource use by existing and future generations.

Remarks

With close to 5,300 miles of coastline, 78 percent of the state's population, 80 percent of all tourist expenditures and a 1.7 billion dollar contribution to the gross state product, the coastal zone is a dominant natural and economic feature of my state of Maine. Whether it is the need for water access for fishermen in Maine's easternmost Washington County, the need for infrastructure and sustainable development plans in our rapidly growing Midcoast area, or the need to permanently protect critical coastal habitats in Southernmost Maine, coastal management needs have outstripped my state's capacity to keep pace. What I would call the first phase of coastal zone management successfully established basic core policies and environmental laws and supported a network of National Estuarine Research Reserves including one in Wells, Maine. While this initial work established essential founda-

tions for balanced conservation and development, the next wave of coastal management needs to support the use of new tools and technology, innovative development practices, more effective education programs and more focused land conservation and restoration programs to achieve national goals for a healthy coast and robust coastal economy. Unfortunately, Maine's Federal CZM funds have been capped for more than five years, limiting our capacity to effectively manage coastal resources. It is my hope that a reauthorized Coastal Zone Management Act will represent this second wave of more sophisticated, comprehensive and effective coastal management in partnership with states and local communities.

I will take this opportunity to discuss five aspects of S 360, offering examples of how this legislation would provide direct benefits to my home state of Maine. Finally, I'll speak to the topics of regional eco-system based management where I believe there are additional opportunities to strengthen the CZMA.

Strengthening Coastal Communities

S. 360 includes an important new focus on Coastal Communities Program in an enhanced Section 309. Like many other states, Maine has many, many municipalities in its coastal zone—136—plus two tribes, several unorganized territories and more than 5,000 islands. Small towns with little technical paid staff are the norm. Through current CZM-funded programs combined with state resources, Maine helps towns via grant programs and targeted technical assistance and training. One example of this work is Maine's Working Waterfront Initiative where more than ninety partner organizations are working to retain critical small harbors for use by businesses that need a waterside location. Beginning with development of case studies of twenty-five working waterfront towns, CZM funds in Maine helped form a coastwide working waterfront coalition, a local grants program, a new technical assistance website, and direct assistance for land acquisition efforts. Maine's legislature is currently contemplating the passage of a bond issue to establish a new working waterfronts acquisition program. Is there a better success story for coastal zone management than one that helps shed light on the problem, mobilizes constituents, creates solutions, helps local people to solve local problems and spurs new state investment in a critical problem?

An enhanced coastal communities program would allow Maine to develop innovative programming targeted to the needs of our coastal towns. One such need is the capacity to work with groups of towns on targeted "bay management" programs, whereby groups of stakeholders would work side by side with state and Federal officials to understand local systems through additional research, to create area specific resource management plans, and manage nearshore resources more effectively.

Restoring Coastal Habitats

S. 360 strengthens the role of the CZMA in coastal habitat restoration. Through the use of CZMA funds, other Federal resources, state contributions and local match, Maine completed five significant habitat restoration projects last year, forged a landmark agreement to restore diadromous fisheries on the Penobscot River while preserving hydropower production on the lower river and assisted thirty municipalities with habitat protection strategies. In Sagadahoc County, where I work, twelve towns are collaborating on a regional habitat and open space conservation effort. Getting Maine towns to work together is challenge enough, to have more than 100 people participate in a regional visioning session and giving the session rave reviews is a miracle! Research documents that protecting large, unfragmented tracts of important habitat, and linking protected habitats via buffered stream corridors is necessary to retain ecosystem functions. There are nine other regions in coastal Maine where such an innovative landscape-scale approach could be deployed if resources were provided.

Reducing Coastal Non Point Pollution

S. 360 clarifies that states can use CZM funds to implement coastal nonpoint pollution control programs. While this clarification is useful, authorization levels should reflect an additional \$10 million for states to use in a flexible way to take the actions they deem to be effective in controlling nonpoint pollution instead of a zero sum game. Maine is typical of other coastal states in that nonpoint source pollution represents more than 80 percent of the remaining sources of pollution entering our estuaries and coastal waters. As a participant in a local program to monitor water quality, conduct shoreline surveys and open clamflats, I know that controlling coastal nonpoint pollution is ongoing, time consuming, hard work. Consistent Federal investment to help meet water quality goals is vital. Given inconsistent levels of funding over the years, Maine has not been able to fully implement its Federally approved coastal nonpoint program. For example, for three years when provided sufficient implementation funds, Maine was able to partner with the Maine Marine

Trades Association to launch a Clean Marinas initiative, a voluntary certification program for marinas and boatyards that go the extra mile to reduce pollution beyond what is required by law. Maine's program is the only one in the Nation housed at a business trade organization. Through a modest investment of \$50,000 in Federal funds, leveraged by local resources five new marinas gained "clean" certification last year and the program's technical assistance efforts are available statewide. Although MMTA has developed a business plan that will allow them to accept increasing responsibility for the Clean Marina program over subsequent years, without new coastal nonpoint funds, the fledgling program would not operate beyond June 2006. With all evidence pointing to the ongoing pervasive effects of polluted runoff on coastal systems, to not offer increased consistent funding to this program would be missing the mark.

Conserving Coastal and Estuarine Lands

Maine has just submitted its draft Coastal and Estuarine Land Conservation Plan, anticipating that an amended S. 360, or a separate bill, might formalize the Coastal and Estuarine Land Conservation Program as an ongoing competitive grant program to benefit all coastal states. Our planning effort identifies critical types of coastal lands that are most threatened by future development. All of the state's major players in land conservation, including coastal land trusts were involved in its creation. Given such a blueprint, our conservation needs are many. Over the last eighteen years, the Land for Maine's Future Program has invested more than \$21 million for 75 projects in Maine's coastal zone, helping to protect almost 26,000 acres of prime wildlife habitats, secure public access to the shore for boating and recreation, add to state and municipal park lands, maintain scenic areas, preserve coastal islands, and provide open space and recreational lands. A source of Federal matching funds to help leverage state conservation dollars could significantly increase the pace and quality of coastal conservation in Maine.

Advancing Coastal Education and Awareness

The fifth area of S. 360 that I will touch on is the benefit of The Coastal Training Program at the National Estuarine Research Reserves and other hands-on, innovative programs that bring teachers and students and decisionmakers more directly into contact with the habitats and ecosystems of coastal watersheds and the major issues of management and governance essential to secure a bright future for all. Whether it is a classroom of high school students conducting water quality surveys as part of chemistry class or a real estate business group gathering to learn about the value of wetlands on the landscape, sound management practices will never succeed unless the public understands and embraces them. The role of education cannot be understated. The Maine Coastal Program has a vision that includes a statewide network of Coastal Training Programs up and down the Maine coast that would function as centers of learning about local watersheds and provide a home for a variety of citizen stewardship and monitoring programs.

Fostering Regional Governance

Over the last fifteen years, CZM and other Federal funds, combined with state resources from Maine, New Hampshire and Massachusetts, have provided the seed money, as well as much of the brain power, that has established collaborative, transboundary management of the Gulf of Maine. Maine appreciates the support of Senator Snowe for these efforts, however, there is no ongoing dedicated support. The governors and premiers of the five Gulf jurisdictions—Massachusetts, New Hampshire, Maine, New Brunswick, and Nova Scotia—created the Council in 1989 as a regional forum to exchange information and engage in long-term planning. The Council conducts environmental monitoring; provides science translation for coastal managers; organizes conferences and workshops; offers grants and recognition awards; raises public awareness about the Gulf; and connects people, organizations, and information.

The Gulf of Maine Council's model approach was recognized by the U.S. Ocean Commission and our experience has contributed to the body of ideas being developed around regional governance and ocean councils. In response to the U.S. Ocean Commission report and President Bush's Ocean Action Plan, the CZMA could be further strengthened to support regional ocean governance. Maine's Governor John Baldacci, as stated in his comments to the U.S. Ocean Commission, places a high priority on building a more robust regional governance model using the Council, the Gulf of Maine Ocean Observing System and other framework elements currently in place. Our Governor knows that the timing is perfect for strengthening regional governance in the Gulf of Maine as our Canadian partners are developing their Ocean Action Strategy and establishing Large Ocean Management Areas. While we are well poised for exciting ecosystem-based management work, we need Congressional

support and a strengthened Federal-state partnership to make this happen. The CZMA is one place Congress might invest in Federal/state ocean planning and management and a regional grant programs to support this work on an ongoing basis.

Thank you again for the opportunity to present this testimony. I would be happy to answer questions.

Senator SNOWE. Thank you, Dr. Hudson.

Mr. Jeffress, thank you for being here from Alaska and making that trip. Thank you.

**STATEMENT OF BILL JEFFRESS, DIRECTOR,
OFFICE OF PROJECT MANAGEMENT AND PERMITTING,
ALASKA DEPARTMENT OF NATURAL RESOURCES**

Mr. JEFFRESS. Honorable Chairwoman, Senator Lautenberg, and Senator Stevens: Thank you for this opportunity to testify. My name is Bill Jeffress. I am the Director of the Office of Project Management and Permitting for the Alaska Department of Natural Resources. Our office is responsible for the implementation of the Alaska Coastal Management Program, the ACMP.

Since 1997 the State of Alaska has relied on continued program approval and funding provided by the CZMA through NOAA's Office of Ocean and Coastal Resource Management. Overall, the Alaska program has been successful in providing the State and our local districts with funding and guidance to implement a program that achieves a balance between economic development and the protection of coastal uses and resources. However, after more than 25 years of implementing a coastal program, we felt many aspects of the ACMP needed updating to better achieve this balance.

Since 2003, Alaska has been restructuring and amending the ACMP to refocus our program to meet the unique and specific needs of Alaska. We are currently working with OCRM to gain approval of our amended program.

Through our membership with the Coastal States Organization, Alaska is very aware of the problems and the situations that are prevalent in other coastal States, territories, and trust properties, and their requirement for a higher level of protection, restoration, enhancement, or creation of coastal wetlands, coral reefs, marshes, and barrier islands.

However, the majority of the other coastal States are at the opposite end of the spectrum from Alaska. Where other States are striving to protect, preserve, restore, or enhance remaining areas of undeveloped shoreline or restore previously disturbed shoreline areas, Alaska has yet to develop 1 percent of our more than 44,500 miles of shoreline. The vast majority of this shoreline is extremely remote and accessible only by boat or aircraft.

In addition to having over twice the length of shoreline of all the other coastal States combined, Alaska is the Nation's only Arctic State, with environmental issues more akin to Russia and Canada than other coastal States. Alaska is the largest ocean State in the country. Alaska occupies 20 percent of the Nation's land base, contains half the Nation's wetlands and 40 percent of the Nation's surface water. Alaska's proven and unexplored natural resources are greater than any other State. Alaska's oceans and coastal watersheds produce 25 percent of the Nation's oil, over 50 percent of the Nation's seafood, and over 50 percent of the Nation's minerals.

Because of the vast differences between Alaska and other States, Federal programs often do not adapt to Alaska even though those programs may very well meet the needs of other States. Federal flexibility in State collaboration to balance national policies with local conditions is needed for successful resource management.

Alaska supports the reauthorization of the Coastal Zone Management Act and supports the overall goals of CZMA, but reiterates that provisions be made to accommodate Alaska's unique geographic setting, cultural diversity, expansive coastal shorelines, and her great potential for natural resource development to ultimately support State and national interests.

One of the best examples of the need to make accommodations for Alaska is the requirement for the Federal effects test. Under CZMA effects are not just environmental effects, but include effects on coastal uses. Federal consistency determinations would be required for a Federal activity hundreds of miles inland of our coastal zone boundaries that cumulatively and indirectly affect coastal uses.

Alaska does not advocate removal of the Federal effects test, as the State has an interest in ensuring that inland Federal activities that have a foreseeable significant effect on coastal uses and resources are reviewed for consistency with Alaska's coastal management program. But Alaska does advocate subjecting itself to a modified effects test whereby the definition of "effects" was revised to include only the impacts that directly and significantly affect the uses and resources of a coastal zone.

In conclusion, we believe that Alaska's coastal management program through the Coastal Zone Management Act is a worthwhile and valuable program. However, there is an increased need for Federal flexibility in order to improve the performance, especially considering Alaska's unique setting.

Thank you again for this opportunity to testify and we are eager to work with you and your staffs to make CZMA work for Alaska and the Nation.

[The prepared statement of Mr. Jeffress follows:]

PREPARED STATEMENT OF BILL JEFFRESS, DIRECTOR, OFFICE OF PROJECT
MANAGEMENT AND PERMITTING, ALASKA DEPARTMENT OF NATURAL RESOURCES

Honorable Chair and Committee Members thank you for this opportunity to testify on the reauthorization of the Coastal Zone Management Act. My name is Bill Jeffress; I am the Director of the Office of Project Management and Permitting with the Alaska Department of Natural Resources. Our office is responsible for the implementation of the Alaska Coastal Management Program, "ACMP."

Since 1977, the State of Alaska has relied on continued program approval and funding provided by the CZMA through NOAA's Office of Coastal and Resource Management, or "OCRM," to assist with the cooperative implementation of Alaska's coastal management program. We are proud of Alaska's program, which we feel successfully achieves the delicate balance between economic development in coastal regions and the protection of coastal uses and resources, and we are grateful for the Federal funding provided through the CZMA for Alaska and its local coastal districts to operate our program effectively. However, after more than twenty-five years of implementing the ACMP, we recently determined that many aspects of the program had to be updated to improve the program's efficiency, allowing project applicants to timely obtain permits for responsible economic development while maintaining protection of our coastal uses and resources. Therefore, since 2003, Alaska has dedicated incalculable hours amending the ACMP to improve and streamline the program in order to meet the unique and specific needs of Alaska today and into

the future. We are currently working with OCRM to obtain Federal approval of our amended program.

Through our membership and participation in the Coastal States Organization, Alaska is very aware of the positions of other coastal states, territories, and trust properties, who require the highest level of "protection, restoration, enhancement, or creation of coastal wetlands, coral reefs, marshes, and barrier islands." However, Alaska is at the opposite end of the spectrum from the majority of other coastal states. Where other states are striving to protect, preserve, restore, or enhance remaining areas of undeveloped shoreline or restore previously disturbed shoreline areas after centuries of development, Alaska has yet to develop even 1 percent of our more than 44,900 miles of shoreline. Development is rendered all the more difficult since the vast majority of this shoreline is extremely remote and is accessible only by boat or aircraft.

In addition to having over twice the length of shoreline of all the other coastal states combined, Alaska is the Nation's only arctic state, making its environmental issues more akin to Russia, Sweden, Norway, Greenland and Canada than to other U.S. states. Alaska is also the largest ocean state in the country, bordered by the North Pacific Ocean, the Bering Sea, the Chukchi Sea, and the Beaufort Sea. Alaska occupies 20 percent of the Nation's land base, contains half of the Nation's wetlands, and 40 percent of the Nation's surface water.

Alaska's proven yet unexplored natural resources are greater than any other state. Alaska's oceans and coastal watershed produce 25 percent of the Nation's oil, over 50 percent of the Nation's seafood, and a large percentage of the Nation's minerals from several world class mines. In short, Alaska is a fundamentally unique territory, with dramatically different, often divergent, goals and impediments than any other coastal state.

Because of the vast difference between Alaska and other states, Federal programs that very well meet the needs of other states often do not adapt to Alaska. National goals sometimes are at odds with what makes sense for Alaska. Federal flexibility to balance national policies with local conditions is required to properly and effectively manage our coastal and other resources. Indeed, Alaska has a long history of working successfully in collaboration with Federal and local jurisdictions on ocean and coastal issues. From joint State and Federal oil and gas lease sales in the Beaufort Sea, to the continuing work with OCRM for the approval of the requested amendment of the Alaska Coastal Management Program, Alaska has a great deal of experience in the benefits of intergovernmental coordination for managing ocean, coastal, and watershed resources.

Alaska supports the reauthorization of the Coastal Zone Management Act with the same clear direction that motivated the Congress to originally pass this legislation, which was "to encourage and assist the [coastal] states to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the need for compatible economic development." Alaska supports the overall goals of the CZMA. However, we request that provisions be made to accommodate Alaska's unique geographic setting, cultural diversity, expansive yet underdeveloped coastal shoreline, and our great potential for natural resource development to ultimately support both State and National interests.

An excellent example of the need for legislative accommodation for Alaska is the application of the CZMA's Federal "effects test." Under this test, every Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone is subject to a state consistency review. But because under the CZMA regulations, "effects" are so broadly defined to include not just environmental effects, but secondary, cumulative, indirect and remote effects on coastal uses, a Federal consistency determination would be required for a Federal activity hundreds of miles inland that cumulatively and indirectly affect the coast. This potentially onerous requirement could stymie or impede development in a manner presumably never anticipated by the drafters of the regulatory language.

Alaska does not advocate removal of the Federal effects test, as the State has a keen interest in ensuring that inland Federal activities that have a foreseeable, significant effect on coastal uses and resources are reviewed for consistency with Alaska's coastal management program. But Alaska does advocate subjecting itself, and any other similarly unique geographical state, to a "modified effects test," whereby the definition of "effects" was revised to include only impacts that "directly and significantly affect the uses or resources of the coastal zone."

In conclusion we believe that the Alaska Coastal Management Program, operated under the approval and oversight of the Federal Coastal Zone Management Act, is a worthwhile and valuable program. However, in order to improve its performance and efficacy, there is a vital need for flexibility in the application of the CZMA to

Alaska's coastal management program, which manages our nation's most uniquely immense and diverse coastline.

Thank you again for this opportunity to testify before this Committee.

Senator SNOWE. Thank you very much. We appreciate all of your testimony and we will move along because I know we have a vote at noon.

The first question I would like to pose to the panel gets to the essence of the problems we have had in reauthorizing the Coastal Zone Management Act—and these issues are pending this week as well in the Energy Committee. The consistency requirement has been one of the powerful tools in the Coastal Zone Management Act for respecting States' rights and governing Federal actions as well off State shores.

Now, Mr. Fry, you said that the process has worked well for the most part; is that correct? So what are we limiting it to? We have heard about the 14 appeals, for example. What are we discussing here? Is there not a way of addressing this problem without undercutting the consistency requirements altogether and also respecting—going beyond just the issue of States' rights—that there is a regional part to all of this? The regional element is also important, certainly in my State of Maine and the Gulf of Maine, as Dr. Hudson will tell you and Senator Nelson referred to. In the Gulf of Mexico, for example, the implications for decisions made by one state can impact his state, and the same is true for my home State of Maine.

So is there not a way of addressing these questions without keeping this open-ended and discarding it for the most part?

Mr. FRY. Yes, I think there are ways to do that. Our suggestion really relates to this appeal process. As has been talked about, you have got those thousands of cases where the CZMA consistency works, but in those 14 to 17 cases that come up, what has increasingly occurred is that the time frame for those appeals has continued to increase and increase. It started off being about a year, and now the average time seems to be much greater than a year. The last one of these went about 50 months without a decision ever having been reached.

What we are saying is, do not leave the openers in there; do not allow the decisionmakers at the end of the game to not make a decision. We are not trying to cut the States out of the process in any way. The States get to participate all the way through the appeal, to the appeal process. They are involved. There is no indication on our behalf that they should be taken out of it. We are only suggesting that we come to a conclusion of the process.

Senator SNOWE. Well, would you think that 270 days was an unwarranted period of time to make that decision in the appeal process?

Mr. FRY. We would certainly like to see it be shorter. But if you have anything that ends, that would be good.

Senator SNOWE. Ms. Chasis, could you respond to Mr. Fry's comments? What can we do to make it more predictable? What would you support?

Ms. CHASIS. Right. I think that the way it is structured in the proposed NOAA rule makes some sense, where it has 270 days for submission of briefs and information. Remember that the issues on

appeal are new; they are *de novo*. In other words, the question is, does the—the Secretary is deciding whether the activity that the State has objected to is consistent with the purposes of the CZMA or is needed in the interest of national security. That is the first time those questions are addressed.

So there is a need to allow time to submit information on that. What the proposed rule does, which the Senate energy bill as I understand it that will be marked up tomorrow does not do, is the proposed rule does allow an extension of that 270 days to permit the Secretary to receive the final environmental impact statement on the project or the biological opinion under the Endangered Species Act, or by the mutual agreement of the parties.

We think those are important caveats. The project cannot go forward in any event until there is a final EIS or biological opinion, so having that reopener or allowing for that to occur would not—should not delay the project. So we think that that approach is preferable to what we understand is in the Senate energy bill.

Senator SNOWE. I see. Would that be offered as an amendment?

Ms. CHASIS. I think it is in the energy mark, in the bill that is in the mark.

Senator SNOWE. The Chairman's mark.

Dr. Hudson, would you like to respond?

Dr. HUDSON. Well, the council does not—as you know, it is a deliberative body, but it is not a decisionmaking body, and we have survived for more than 15 years because we have—well, there are certain things we cannot talk about. We cannot talk about fish, for example. However, we end up talking about fish by stimulating research into where young lobsters breed on the coast of Maine, or trying to understand ecosystems on the bottom of the ocean in the Gulf, and therefore we try to assist the ultimate Federal and State decisionmakers by gathering information and providing a forum where people can talk about difficult issues, knowing that there is not a decision that is pending in an hour or 2 hours or 270 days.

My experience with the council is that these kinds of formal forums that bring together resource people, primarily from State agencies and Federal agencies—there are only a handful of us who do not belong to those kinds of organizations who participate—and my experience is that it is a good place to try to gain consensus on issues without worrying about how many tons of cod can be caught this year.

Senator SNOWE. Mr. Jeffress.

Mr. JEFFRESS. I think any time we can bring certainty to the process by picking a date specific is good. But I think what we need to do is look earlier into the process. As Senator Stevens mentioned, a lot of these processes should be rolled into one review, and by the time you get to the point for an appeal most of the efforts have been exhausted in coming to a compromise.

In Alaska, one of the reasons for the establishment of the Office of Project Management and Permitting was to do just that, is to get the qualified people to sit at the table with the Federal agencies and with industry and develop a process where it was all-inclusive, where we were not waiting at the last minute for NMFS to come up with their EFH evaluation or Endangered Species, and the consistency determination was part of the NEPA analysis. This way

all of these issues were out on the table first and you did not have to go to court to restart the NEPA process or to initiate it to begin with after a consistency determination.

We are finding it is very effective with MOUs with MMS and some of the other Federal agencies to become part of the NEPA analysis and roll the consistency analysis into this. We have had a couple occasions where we have actually done consistency analysis on the preferred alternative after NEPA was complete and it was inconsistent with the local enforceable policy.

That really puts industry and government behind the eight ball. So by being established or part of the team early on, we have been able to circumvent some of these problems that are facing industry and government planning.

Senator SNOWE. Thank you.

Chairman Stevens.

The CHAIRMAN. Well, I am sort of stymied by this because under the CZMA the State makes a plan and submits it to the Federal agency for approval. I have got to assume that that is worked out with the Federal agency, there is approval of a plan. Then along comes an application to do something either by a non-State entity or by a State entity or a Federal entity and someone raises a question of consistency with the plan. At the same time that happens, as Mr. Jeffress mentions, we have a wetlands determination, we have an Endangered Species Act determination, we have a NEPA determination, all of which start about the same time, but they go on independently of CZMA.

As a consequence, we end up, as we did in the Alaska oil pipeline, with Congress taking 4 years to finally reach a conclusion that the applicant to build the pipeline had complied with all of those acts and a court could not—no court could review that decision. That was the final pipeline act decision and it was a 50–50 vote, broken by the Vice President.

Now, that was a cause celebre. But we are talking about now routine things within each State. Normally the State is taking the position that it wants to do something and the Federal agency is saying, you cannot do it, or some non-Federal agency is saying that is inconsistent with the plan that the Secretary has already approved.

I think that we have to find some way to bring these together and find a way to get a panel, so that if there is an objection under wetlands, or if you bring in Endangered Species and NEPA and CZMA, any one of them triggers a panel that says: Look, let us listen to the objection, let us take into account everything, but it is going to be decided in a framework of time that everybody has got to work within.

I do not know yet whether the Congress is ready to do that, but very clearly a lot, Ms. Chasis, is going to depend on organizations such as yours. The environmental organizations are the ones that are primarily demanding these consistency actions, that are holding up a final decision on development of oil and gas or energy considerations about 4 years on the average.

Ms. CHASIS. May I respond?

The CHAIRMAN. Yes.

Ms. CHASIS. With the consistency provisions, it is the States that make the determination. We cannot—the environmental groups may advocate for a particular position, but it is really a question of is the State objecting to the applicant's project. The State cannot do that arbitrarily. It has to be looking at the——

The CHAIRMAN. That is only under CZMA.

Ms. CHASIS. Right.

The CHAIRMAN. You go right at the other objections that are equally time-consuming. What I am saying is we ought to find a way to take and review consistency with applicable Federal laws to oil and gas development, particularly to gas development, within a period of time that is reasonable and yet explores the whole, so it gives everybody a chance to be heard, but gets a decision made.

I think—I do not know about Maine. The Maine gas facility is going to be on Indian land as I understand it, but the State may well be in a position to object to that, or someone else will object to it under one of these acts, and how long is it going to take?

We are in—I am being redundant, but I have spent too much time studying the problem of the natural gas shortage in the United States and I have come to the plain conclusion that if we do not have the facilities for taking the LNG ashore it is going to go ashore somewhere else, because there is just so much of that available in the world and we are going to be competing not only in price, but for quantity. We have to have these facilities. We have to have them in place by 2015.

So I think this Congress has the duty to find some way to cut through this and say, OK—I am not asking to repeal the Endangered Species Act, to repeal the Wetlands Act, or to change CZMA or to change NEPA in any way. All I am saying is let us make all reviews simultaneous and get a decision. If the decision is you cannot build in Maine, we will have to go somewhere else.

Now, I like the suggestion that was made previously by Ms. Cooksey, and that is maybe we should find some way to decide, to take a look at a whole region at a time and get everyone to agree where is the best place to locate these gas facilities on the Northeast coast, the Southeast coast, the Gulf coast, California or the West Coast, or Alaska. I do not think Alaska is going to need one. We are going to be in a position of moving gas out of Alaska, not bringing it to Alaska.

But I do think, Senator Snowe, it is going to be this committee's role to try and find some way to put these things together. I intend to write that letter to Senator Domenici and see if the Energy Committee will cooperate with us to try and find a way for both committees to come to the conclusion of how to do this—how to expedite the review of any application to bring liquefied natural gas ashore.

Thank you.

Senator SNOWE. Thank you, Mr. Chairman.

Senator LAUTENBERG.

Senator LAUTENBERG. Thanks, Madam Chairman.

Mr. Fry, the industry wants the final authority on State objections to move from the Secretary of Commerce to the Secretary of the Interior. There have been only 14 State appeals related to the outer continental shelf oil and gas activity. The Secretary of Com-

merce has sided with the States in only seven, seven of these. It seems to me the system is working pretty good, so why should—why should we make the change and not continue it as is with the Secretary of Commerce?

Mr. FRY. Senator, we do understand that that is a controversial suggestion. The reason we raise it is that we feel like that because these appeals now have gotten so long and so drug out over a period of time—and it is because the Secretary of Commerce continues to say, I do not have enough information. Well, the information is available at the Department of the Interior. They have worked this issue. They have worked it from day one with the States, working on consistency. The States have made their ideas known. They have worked with the EPA, they have worked with NMFS on different permits, all of which relate to the consistency determination.

We think the expertise is at the Department of Interior to decide what the record needs to be and also it has a better ability to go ahead and make a decision based on the fact that the expertise rests there.

Senator LAUTENBERG. It does not seem like the system is broken. There are so many other problems associated with decisions about drilling. Do you get a hint that maybe some of the limitations on drilling in the outer continental shelf might be lifted in the energy bill?

Mr. FRY. Well, we have for years—our association was formed to deal with the question of access, both economic access and physical access, to our oceans for the development of energy projects. We have continued to advocate for some sort of lifting of the moratorium. That is not to suggest that we think you should be drilling everywhere all the time. We also think that the industry has shown an incredible ability to produce vast amounts of energy for this country in a safe and environmentally productive way. The technology has advanced so far over the last 10 to 20 years that now this is the NASA of the next century. The work that is going on, the kinds of development that are taking place, where satellites are involved, where computers are involved, where you can drill into 10,000 feet of water and into incredible depths within the crust of the Earth, and even look and see what you are doing while you are doing it.

That kind of technology allows us to produce this energy in a safe way that it does not affect the environment. We think that the paradigm that we have lived in of moratoria is not the best way to make decisions. We ought to be making them on good science and on good information.

Senator LAUTENBERG. Do you think all of this can be done without affecting the ecology of the oceans? We see man's effect on coral reefs and things like that, a diminution of fish stocks. All kinds of things are happening out there and we cannot afford to ignore what the effects of man's intervention into nature's structure.

I particularly am one of those who is concerned—listen, I know that we have got tremendous problems with energy, but there are some other ways to solve these problems. I have never heard—I have rarely heard the word “conservation” used in this country. We do not see the oil companies, the car companies, people rushing to

do the things that seem to come naturally in some other countries in terms of better CAFE standards and all those.

I am preaching to Dr. Hudson and Ms. Chasis here, and perhaps Mr. Jeffress.

Dr. Hudson, I am very interested in ocean and coastal education and I am currently developing some coastal education legislation that would engage traditionally underrepresented groups. Now, in your programs in Maine do you have an initiative that targets the Native American groups as well in terms of educating them about what appropriate use might be?

Dr. HUDSON. Senator Lautenberg, we are starting one. We have had a couple meetings in the last month with education folks in the Penobscot Indian Nation and they are coming down to our place on June 1st. We are going to see how we can help them achieve the stated goals of some legislation that passed in Maine last year that said that every child shall have some experience—it did not say specifically where—K-12—in understanding the history and culture of Native peoples in the State.

We were very pleased when they reached out to us and we are happy to see where it goes. At this point, it is such an early stage that I cannot give you any more information than that. But I would be happy to make sure that you or people in your office get some reports as they come out.

Senator LAUTENBERG. Madam Chairman, thank you very much.

Mr. Jeffress, when you talk about the uninhabited coastline up in Alaska, I am an Alaskophile. I love the State and the beautiful country and the birds and the fish and all that. I have been up there too few times, but whenever I have gone up I have gone up with my son. In our family we think nature is really important and we like to play with it and work with it and try to protect it.

But the prospect that 1 percent of the coastline being used, but you cannot get there from here, as you said—but it is one beautiful place and we hope that it will continue to be protected and that some day we will make certain, Mr. Fry, that the possibilities of an Exxon Valdez cannot happen. But so far we know it can happen and we have to be wary of it.

Thanks.

Senator SNOWE. Thank you, Senator Lautenberg.

I thank our panelists. I wish we had more time to further explore these issues, but you have been very helpful today in your testimony and your input as we start to focus on some of the issues that have made it difficult to secure a reauthorization of the Coastal Zone Management Act. Perhaps it is possible this year.

But I thank you and we will be following up with each of you. The record will remain open for 2 weeks for any additional comments and testimony. Thank you. This hearing is adjourned.

[Whereupon, at 12:06 p.m., the Committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM CALIFORNIA

Thank you Madam Chairman. I would also like to recognize you and Senator Kerry for your past work in protecting our coast and for your work this Congress on S. 360, the Coastal Zone Enhancement Reauthorization Act of 2005.

As a Senator from California, a state that values and cherishes its coast, the Coastal Zone Management Act is of utmost importance to the people of California. Indeed, few other places on earth depend on the coast as does California.

More than 21 million Californians live in coastal counties—roughly 64 percent of the State's population. The California coast encompasses three National Parks and four National Marine Sanctuaries. It is home to dozens of threatened and endangered species, including the Short Tailed Albatross, California Gnatcatcher, sea otters, Chinook & Coho salmon, Steelhead trout, Guadalupe fur seal, and several species of whales. The natural treasure that is the California coast draws tourists by the millions and accounts for \$51 billion dollars annually for the State's economy. In 2000, people spent over \$2.2 billion on recreational fishing off our coasts. In short, Mr. Chairman, the protection of California's coast is not just an environmental necessity, it's an economic necessity.

The CZMA is one of the most important tools states have to protect their coasts. It represents a unique and carefully crafted partnership between coastal states and the Federal Government. Through this partnership, the CZMA has given states and local coastal governments a meaningful voice in Federal actions and decisions that directly affect the environmental quality of their local communities.

The heart of the Act is the "Federal Consistency" provision—the requirement that Federal agency activities that impact the coastal zone be consistent with the state's Federally approved Coastal Management Program. The Consistency provision gives communities assurance—assurance that Federal actions that do not comply with a state's coastal program will not go forward.

Madam Chairman, this Act is a model of Federal-state cooperation—in an era where we are being constantly told by some political leaders that we must respect states' rights, it would be wrong to undermine such a law.

Yet despite this, there are proposals floating around to change the CZMA's essential protections. Some are proposing giving veto power over a state's Consistency appeals on Outer Continental Shelf issues to the Secretary of the Interior. As few things constitute more of a threat to the well-being and health of the California coast than offshore oil and gas drilling, such a change would be disastrous to my state.

The House Energy Bill also contains provisions that would put states at a major disadvantage during the appeals process by closing the appeal record just 120 days after an appeal is filed—a time frame far too short for our states.

In February of this year, I was proud to work in a bipartisan fashion with my colleague, Senator Dole, by sending a letter to key Senate Energy Committee members, asking them to avoid attempts to weaken the state moratoria on offshore drilling.

Madam Chairman, we should be celebrating the partnership that this Act creates, not undermining it. This Committee needs to be vigilant of attempts to weaken the protections of the CZMA. I am grateful that the Snowe-Kerry reauthorization bill does not weaken the CZMA.

As Members of the United States Senate, let's reassure the states that the Federal Government will keep its promise to coastal states—let's move forward with a reauthorized CZMA that will keep the model partnership alive and our coasts protected.

PREPARED STATEMENT OF THE NATIONAL ESTUARINE RESEARCH RESERVE
ASSOCIATION (NERRA)

Introduction

Since 1987, NERRA has been dedicated to science-based management of our nation's estuaries and coastal systems, and serves as the primary advocate for the National Estuarine Research Reserve System (NERRS), a network of 26 (soon to be 27) regionally-based programs representing diverse estuarine and coastal ecosystems throughout the United States and its territories. Through a state-Federal partnership codified in the Coastal Zone Management Act (CZMA), reserves play a critical role in national efforts to sustain healthy estuaries and coastal communities. National Estuarine Research Reserves support science-based coastal management through long-term research, monitoring, education, and stewardship.

National Estuarine Research Reserve System (NERRS)

The National Estuarine Research Reserve System (NERRS), established under section 315 of the CZMA, is designed to promote informed coastal decisions through site-based estuarine research, education, and stewardship. NERRS sites have been selected on the basis of biogeographic regions that share geophysical and biological characteristics. Coastal states are responsible for management of reserve sites, in cooperation with the National Oceanic and Atmospheric Administration (NOAA).

Since the enactment of the CZMA in 1972, 26 estuaries have been designated as part of the reserve system including Alaska and Puerto Rico, with an additional site in Texas expected to be designated later this year. Reserves serve as regional centers of excellence where coastal communities can access a broad array of coastal products and services, including: (1) training to promote informed environmental decision-making; (2) a national monitoring program for estuaries is maintained; and (3) education opportunities are provided to students and the public. With these key elements, the reserve system is in the unique position of serving the national interest while responding to local needs.

In addition, the reserve system is poised to help carry out the recommendations of the U.S. Commission on Ocean Policy. The Commission recommended that effective policies be based on unbiased, credible, and up-to-date scientific information. The Commission stated that this will require a significant investment in coastal and ocean research and monitoring and the ability to translate scientific findings into useful information products for coastal decision makers. The reserve system not only conducts scientific research and estuarine monitoring, but provides training opportunities to help inform coastal decision making. The Commission also recommended that there is an urgent need to strengthen the Nation's coastal and ocean literacy, including improving decision makers' understanding of the coasts and oceans, preparing a new generation of leaders on ocean issues, and cultivating a broad public stewardship ethic. Through the NERRS education and training programs, the system is well-suited to meet these goals.

Estuaries—dynamic regions where rivers meet the sea—constitute an important interface between land use and coastal resources. Considered to be among the most biologically productive ecosystems on Earth, healthy estuaries are essential to the preservation of robust coastal communities. Estuaries support vital nurseries for economically important fish and shellfish, provide essential habitat for wildlife, create opportunities for ecotourism, and serve as ports for maritime commerce. The NERRS and Coastal Zone Management Programs contribute to the informed use of these estuarine-dependent resources through an integrated program of research, education, and stewardship, as well as implementation of state coastal zone management plans.

Local and regional land use decisions continue to contribute to degradation of water quality and loss of wetland habitat. Land use in watersheds, ranging from agriculture and development to water resource allocation and flood control, are becoming increasingly important factors for coastal and estuarine management. Local elected officials, land use planners, government agencies, and agricultural interests are often asked to make land use decisions without sufficient information regarding the potential consequences to downstream effects.

To meet these challenges, the NERRS has developed several system-wide programs to place reserves in a strong position to detect environmental change, respond to pressing research needs at the local and regional scale, and to provide technical training for the coastal stakeholder community:

- The NERRS System-Wide Monitoring Program is designed to provide standardized monitoring and assessment capabilities at each reserve to detect changes in water quality, biological indicators, and land use change at the watershed scale.

- The NERRS Graduate Research Fellowship Program supports two graduate research projects at each reserve annually on coastal management topics of concern to local and regional stakeholders. Research topics range from stormwater management and restoration ecology to invasive exotic plants and fishery habitat requirements.
- The NERRS Coastal Training Program target individuals involved in local planning and management. Training activities provide science-based information on topics responsive to local needs such as polluted runoff, watershed management, water supply, and restoration science.

Education and Training

Coastal Training Program

One of the most significant challenges in managing the Nation's coasts today is the need to link science-based information to local coastal communities. Decisions made by coastal communities can have profound, long-term consequences for estuarine and coastal environments. Elected officials, land use planners, regulatory personnel, coastal managers, and agricultural and fisheries interests are key decision makers who often do not have adequate access to relevant science-based information, training, or available technology to make informed decisions affecting the coast. Building on past success with services for coastal decision-makers, the NERRS has developed the Coastal Training Program to fill this need.

The Coastal Training Program provides the best available science-based information, tools, and techniques to individuals and groups that are making important decisions about resources in coastal watersheds, estuaries, and nearshore waters. Programs have taken the form of workshops, seminars, distance learning, technology applications and demonstrations. Opportunities for information exchange and skill training are expanding coastal management networks and collaboration across sectors, and improving local understanding of the environmental, social, and economic consequences of human activity in the coastal zone. These programs also make use of field experiences, relevant research and monitoring, and facilities provided by the reserves.

The Coastal Training Program was designed to increase the current capacity of reserves to deliver technical training services to under-served constituent groups. Reserve staff continue to work closely with state coastal programs and others to identify critical issues in the region and key coastal decision-makers that could benefit most from relevant science and training. Coastal Training Program participants have included state and local elected and appointed officials, agency staff, volunteer boards, members of NGOs, business organizations, and state and regional professional associations whose daily decisions impact coastal resources.

Reserve staff are implementing the Coastal Training Program in partnership with national and local organizations. At the national level, NOAA's Estuarine Reserves Division provides strategic and budget planning and support in partnership with NOAA's Coastal Management Programs, Sea Grant, and the Coastal Services Center. At the local and regional levels, individual reserves are developing Coastal Training Program partnerships with state coastal programs, Sea Grant programs, local universities and researchers, professional organizations, local government agencies, non-profit organizations, and a variety of others with expertise, skills, training sites, and logistical support.

K-12 Estuarine Education Program

During 2004, reserves engaged over 80,000 students in K-12 education programs, and 3,000 teachers in professional development programs. EstuaryLive alone—an annual interactive virtual field trip designed to increase students understanding about estuaries—engaged 13,600 students and teachers during the broadcast. As recommended by the U.S. Commission on Ocean Policy, there is an urgent need to strengthen the Nation's coastal and ocean literacy. With a coordinated network of educators, the NERRS is positioned to increase public awareness about estuaries and coastal systems. Building on site-based education efforts, the NERRS is developing a system-wide K-12 education program. This program would allow the reserve system to network more efficiently across the country, generate and disseminate educational products that use data generated by ocean observing systems to the K-12 community, share and exchange resources, and enhance efforts to incorporate ocean and coastal science into local curricula.

Research and Monitoring

Graduate Research Fellowship Program

Estuaries are highly variable, complex systems where the variability in water movement, water quality, habitat, and human use vary over a wide variety of spatial and temporal scales. Because of this variability, it is often difficult to separate natural change from those changes influenced by human use of our coasts and estuaries. Two approaches are necessary to address this issue. First, targeted research is needed to determine the cause and effect relationships of human influence on estuarine variability, and second, a long-term monitoring program is needed to characterize the natural variability that governs the structure and function of estuarine systems. The reserve system has begun building the capability to meet these management needs.

The NERRS is addressing the first need through the Graduate Research Fellowship program where students across the Nation compete to work on priority needs of the coastal management community.

Up to fifty-two graduate students per year receive support from this program and present results of their research at national, regional, and local meetings where information is transferred to other researchers, coastal managers, and those individuals responsible for making daily decisions with respect to our coastal and estuarine resources.

In addition to the graduate research program, reserve sites are being actively promoted as sites for long-term research by many granting agencies such as the National Science Foundation, Environmental Protection Agency and, of course, NOAA. This promotion directs researchers from throughout the country to conduct long-term studies in estuarine research reserves.

System-wide Monitoring Program

With respect to the second need, that of a long-term, estuarine monitoring capability, the NERRS operates the *only* national monitoring program for estuaries in the United States. In 1995, the NERRS established the System-wide Monitoring Program. This program is designed to identify short-term variability and long-term trends and changes in coastal ecosystems, including locations that span the range of coastal environments from estuaries and coastal waters to watersheds. The program focuses efforts on three critical areas: estuarine water quality; estuarine biodiversity; and estuarine land use and habitat change.

The System-wide Monitoring Program provides valuable long-term data on water quality and weather at frequent time intervals. Coastal managers use this monitoring data to make informed decisions on local and regional issues, such as "no-discharge" zones for boats and measuring the success of restoration projects. Periodic syntheses of data are expected to serve as one of the mechanisms by which coastal managers can inform their decision-making responsibilities. In addition to serving regional research and coastal management needs, the System-wide Monitoring Program is designed to enhance the value and vision of the 26 reserves as a system of national references sites.

Future efforts will focus on the expansion of biological monitoring at all reserves and tracking habitat and land use changes through remote sensing techniques. Expansion of the SWMP effort is aimed at adding to the current system of environmental observations made at reserves. This will be addressed through spatial expansion of the monitoring system, and the addition of new monitoring parameters such as nutrients. When fully implemented, the System-wide Monitoring Program will provide valuable long-term, integrated data on water quality, weather, biota, land use, and habitat change within the National Estuarine Research Reserves.

All numerical data sets collected by the System-wide Monitoring Program are compiled, subjected to a rigorous quality assurance protocol, and the database and associated metadata are submitted to the NERRS Centralized Data Management Office at the University of South Carolina Belle W. Baruch Institute of Marine and Coastal Sciences. Following final quality assurance, the Centralized Data Management Office disseminates all system-wide data and summary statistics over the World Wide Web (<http://inlet.geol.sc.edu/nerrscdmo.html>) where researchers, coastal managers, and educators readily access the information.

The water quality and meteorological monitoring components of the System-wide Monitoring Program have been recognized as a fundamental backbone element in the national Integrated Ocean Observing System (IOOS) framework, and the reserve system is currently developing and testing near real time data delivery systems that include real time data quality control.

Resource Stewardship

In addition to research, monitoring, education, and training, reserves are developing resource stewardship and coastal restoration programs that address both site-specific and watershed-scale information needs. Resource stewardship is an essential component of the NERRS mission and ensures that site conditions remain suitable for long-term research and education programs. Stewardship activities include the eradication of exotic species, restoration of natural hydrologic processes, and the conduct of prescribed burns in fire-dependent plant communities. NERRS staff also has built strong partnerships with local agencies, organizations, and landowners to develop watershed management strategies, and Best Management Practices that mitigate disturbance to water quality and habitat structure.

Partnerships

The NERRS enjoy a strong relationship with its Federal partner, the National Ocean Service at NOAA. The state-Federal partnership, a hallmark of the NERRS, is strong. NOAA has been increasing its service to the NERRS, especially training, materials, and assistance with site profiles from the Coastal Service Center, and providing opportunities for the reserves to play a larger role in coastal science programs at the agency.

Reserves also leverage significant resources on behalf of coastal research, education, and management through partnerships with government agencies at local, regional, and Federal levels, private industry, and academia. For example, the Hudson River Reserve received approximately \$2 million in funding from the state of New York, Columbia University, and the Hudson River Foundation to characterize the benthic habitat of the Hudson River. The Jacques Cousteau Reserve received more than \$1 million from Federal, state, and private sources to investigate coastal processes at a Long-term Ecosystem Observatory, and to develop science enrichment programs for the precollegiate community based on this field program. At the Elkhorn Slough Reserve, a partnership with the Elkhorn Slough Foundation, National Audubon Society, and the Monterey County Planning Department is gathering critical resource information for a regional watershed plan. The plan will be used to guide future land use in the watershed surrounding the reserve.

Reauthorization of the CZMA

Reauthorization of the CZMA provides an opportunity to strengthen the capabilities of coastal communities to address issues of coastal development, protection, and habitat restoration. Of particular importance to the NERRS, is the framework provided by the CZMA to meet the need for informed decision-making at the Federal, state, and local levels.

Amendments to the Act should:

- Provide effective mechanisms to assess the technology and information needs of coastal communities at local and regional scales;
- Strengthen the capacity of the state-Federal partnership to support research and monitoring relevant to local and regional needs; and
- Improve the access and delivery of science-based information to coastal communities, and evaluate the performance of the state-Federal partnership in support of informed coastal decisions.

Specifically, NERRA offers the following recommendations in support of reauthorization of the Coastal Zone Management Act.

NERRA fully supports that S. 360, the *Coastal Zone Enhancement Reauthorization Act of 2005*, better reflects the mission of the reserve system as a network of protected areas established for long-term research, education, and stewardship. We want to ensure that the final language provides adequate authority for NERRS' research and monitoring, education and training, and stewardship programs.

We would respectfully request that the Committee include language in the Congressional Findings section of the bill that specifically addresses the purpose and need for a national system of estuarine research reserves. Such language should express that the reserve system will provide for protection of essential estuarine resources, as well as for a network of state-based reserves that will serve as platforms for coastal stewardship best-practices, monitoring, research, education, and training to improve coastal management and to help translate science and inform coastal decision makers and the public.

We also suggest that NERRA's vision of having a reserve in every coastal and Great Lakes state be incorporated into the bill, rather than only the current requirement that a reserve contribute to the biogeographical and typological balance of the reserve system. While it is important that new reserves contribute to the biogeographic representation of the system, having a reserve in every coastal and

Great Lakes state would provide the coastal training, education, research, and monitoring opportunities the reserve system offers to each state and each state's coastal program.

With respect to the authorization of appropriations section, NERRA recommends that for grants under section 315, the bill include a reauthorization beginning at \$22 million and increasing by \$1 million per year to accommodate new sites, expansion of products and services, and cost of living increases. An authorization at this level would allow the NERRS to add new reserves into the system, enabling us to work toward our vision of having a reserve in every coastal and Great Lakes state, and would allow the NERRS to expand core programs or more fully develop them, such as the K-12 Estuarine Education Program.

NERRA endorses incorporation of funding for construction projects into the reauthorization measure, as stated in S. 360, but would ask the Committee to include acquisition projects as well. This would better reflect our current appropriations, which have been to support both construction and acquisition projects. The NERRS have established procedures for setting priorities for construction and land acquisition, and recently assembled long-term plans to meet construction and land acquisition needs. Incorporation of funds for these purposes into the CZMA will provide a stable, long-term source of funding for the NERRS to maintain facilities in support of research, education, and stewardship programs, as well as to acquire priority land and water areas for watershed management.

Conclusion

NERRA is very supportive of S. 360 and appreciates the Committee's interest in reauthorizing the Coastal Zone Management Act. NERRA is ready to work with you in any way to support passage of S. 360. We would be pleased to provide further information or answer any questions you may have. Please do not hesitate to contact the NERRA Executive Director, Angela Corridore (acorridore@sso.org or 202-508-3836), with any questions.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO
THOMAS KITSOS, PH.D.

OCS Environmental Reviews

Question. The U.S. Commission on Ocean Policy's recommendation 24-2 states that the MMS should conduct routine environmental monitoring as part of an expansion of its environmental studies program. Specifically, the Commission recommends conducting long term environmental research and monitoring at selected OCS sites. This type of monitoring could provide valuable information on the long term and cumulative impacts of oil and gas development. How could NOAA work with MMS on these activities, considering NOAA's responsibility for conservation and management of habitats and living marine resources?

Answer. NOAA provides environmental reviews through the Minerals Management Service's decision-making process for oil and gas activities on the Outer Continental Shelf (OCS), pursuant to NOAA's responsibilities under the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the National Marine Sanctuaries Act (NMSA) and the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA). For the most part, environmental reviews conducted by NOAA, and those conducted by the coastal States under the Coastal Zone Management Act (CZMA) occur simultaneously.

When the Minerals Management Service (MMS) proposes a lease sale or deems submitted an exploration plan (EP) or development and production plan (DPP) for Alaska or the Pacific, or a Development Operations Coordination Document (DOCD) for the Gulf of Mexico, for OCS oil and gas activities under the Outer Continental Shelf Lands Act (OCSLA), MMS:

- initiates review under the OCSLA;
- begins NEPA compliance;
- sends the EP, DPP, or DOCD to the applicable coastal State(s) for the State's review under the OCSLA and the six-month CZMA Federal consistency review; and
- may also initiate formal or informal consultations under the ESA, NMSA, and MSFCMA (for Essential Fish Habitat or EFH), if required.

Additionally, MMS works with NOAA to ensure animals protected under the Marine Mammal Protection Act (MMPA) are appropriately considered. NOAA provides substantive review and assistance under these statutes, when appropriate.

In order to improve the environmental review process and make it more efficient, NOAA could become involved earlier in the process, providing comments as NEPA documents are being drafted. Early engagement could ensure smooth coordination among the various NOAA offices that are responsible for reviewing proposals. These or similar procedures would allow agencies to address areas of potential conflict early in the process. Our experience with deepwater ports demonstrates that early involvement and internal coordination can work, but does require additional effort and resources.

Below are brief descriptions of two of NOAA's programs and how they relate to MMS responsibilities:

CZMA Review

For EPs, the OCSLA requires MMS to make its decision whether to approve an EP within 30 days of receiving it. MMS deems a plan submitted when all information is received from the applicant and MMS does not identify any deficiencies (under MMS regulations, MMS has 10 working days after receipt of an EP to determine whether additional information is needed). Within that 30-day period, MMS completes its Environmental Assessment (EA) pursuant to NEPA and makes a decision on the EP. During the 30-day period MMS initiates compliance with other Federal mandates under CZMA, ESA, MMPA, etc., and NOAA and the States provide input within the time frames established under those statutes. The OCSLA 30-day period does not provide time to complete the State CZMA review process. Therefore, the States' CZMA review is based on the "application to drill," which is a permit described in the EP. The Minerals Management Service does not authorize any drilling until the CZMA process is complete.

The process for EPs under all statutes (except CZMA appeal to the Secretary of Commerce) is generally completed within 6 months from when MMS deems an EP submitted. For example, once MMS deems an EP submitted, MMS sends the EP and accompanying information to the State within 2 working days to meet OCSLA requirements and to avoid delay in the CZMA process. MMS sends the EA to the State when the EA is completed or, in the Gulf, forwards it upon request. Because the State receives the EA within a very short period (10–30 days) after the start of the six-month CZMA review period, the CZMA process is not delayed unnecessarily.

For DPPs and DOCs, MMS has more time to respond to the applicant and comply with the OCSLA, NEPA, CZMA, ESA, MMPA, and other relevant statutes. MMS and State agencies have developed procedures to coordinate and streamline State review of EPs, DPPs, and DOCs. NOAA, working closely with the Department of Interior, has proposed amending the CZMA Federal consistency regulations to provide a reasonable and definitive deadline for determining CZMA appeals.

MSFCMA Essential Fish Habitat Reviews

Under the general goal of government streamlining and more specifically in response to Administration efforts to streamline the review of energy projects, the National Marine Fisheries Service combines environmental reviews, merges documents, overlaps review periods, and conducts programmatic analyses so that NOAA's reviews are combined and occur in a timely manner. NOAA's Essential Fish Habitat (EFH) reviews are one of our more visible mandates. The National Marine Fisheries Service estimates that approximately 99 percent of the roughly 50,000 EFH consultations completed under NOAA's EFH guidelines were conducted within the time frames established by other Federal statutes and met private sector expectations.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO
DR. WALTER D. CRUICKSHANK

OCS Monitoring and Review

Question 1. The U.S. Commission on Ocean Policy's recommendation 24–2 states that the MMS should conduct routine environmental monitoring as part of an expansion of its environmental studies program. Specifically, the Commission recommends conducting long term environmental research and monitoring at selected Outer Continental Shelf sites. This type of monitoring could provide valuable information on the long term and cumulative impacts of oil and gas development. Does the Administration have any plans to implement this recommendation?

Answer. The Minerals Management Service (MMS) believes that the Commission's recommendation regarding long-term environmental research and monitoring at selected Outer Continental Shelf (OCS) sites is reasonable. It should be noted

that MMS has conducted and participated in numerous research and monitoring efforts at OCS sites, and in some cases obtains regular reports from industry of certain environmental conditions at OCS production sites. To meet the increased demand for environmental information, the MMS environmental studies program has aggressively sought opportunities to leverage its available resources through partnering. The U.S. Geological Survey continues to focus about \$2.5 million annually to meet some of the biological research needs of the MMS. The MMS also has created research partnerships with universities in Louisiana and Alaska, leveraging Federal funds on a one-to-one basis amounting to over \$3.0 million per year. In addition, MMS partners with other Federal agencies including National Aeronautics and Space Administration (NASA), Office of Naval Research (ONR), National Oceanic and Atmospheric Administration (NOAA), Environmental Protection Agency (EPA), and the Department of Energy (DOE) on research projects when common interests exist, and recently has accomplished a number of its research objectives through leveraging opportunities under the auspices of the National Ocean Partnership Program (NOPP). During the past couple of years MMS has used its annual \$17 million environmental studies program budget to leverage research amounting to \$22 to \$24 million annually.

Some of MMS's ongoing, long-term monitoring activities include:

- Long-term Monitoring at the East and West Flower Garden Banks. This 20-year effort is continuing in an area of the Gulf of Mexico with significant oil and gas activities. It is now being conducted cooperatively with NOAA and is designed to detect any subtle, chronic effects from natural and anthropogenic activities that could potentially endanger community integrity. To date, no significant long-term changes have been detected in Flower Garden Banks coral reef populations, total coral cover, or coral diversity. The live coral cover of greater than 50 percent at the Flower Garden Banks is one of the highest among U.S. reefs.
- Monitoring the Distribution of Arctic Whales. This project has conducted aerial surveys of the fall migration of bowhead whales each year since 1987 to provide an objective area-wide context for management interpretation of bowhead migrations and site-specific study results.
- Arctic Nearshore Impact Monitoring in the Development Area (ANIMIDA and its continuation, cANIMIDA). This study, initiated in 1999, gathers long-term site-specific monitoring data that will provide a basis of continuity and consistency in evaluation of effects from recent OCS oil and gas development and production in the Beaufort Sea. Priority monitoring issues have been determined through public and interagency comment, and coordinated with lessees and other organizations.
- MARINe (Multi-Agency Rocky-Intertidal Network Monitoring Study). This study provides for the monitoring of rocky intertidal sites along the mainland of Southern California adjacent to oil and gas activity and is a joint monitoring program with 23 Federal, state, local agencies, and private organizations. It has been ongoing since 1991.
- The Alaskan Frozen-Tissue Collection and Associated Electronic Database: A Resource for Marine Biotechnology. Tissues from marine mammals and other specimens of the Beaufort Sea, Cook Inlet, Shelikof Strait, and other planning areas have been collected since 1993. This effort ensures a long-term systematic record of frozen tissues from Alaska's marine ecosystems.
- Archiving and Curating OCS Biological Specimens by the Smithsonian Institution. Through this ongoing project, which started in 1979, the Smithsonian Institution, National Museum of Natural History, provides for the long-term reliable maintenance of invertebrate collections from MMS offshore studies. This provides MMS with a biological quality assurance for information collected in support of decisions made in the OCS natural gas and oil program. The OCS specimens represent one of the most extensive collections of marine invertebrates from U.S. continental shelves and slopes in terms of geographic coverage, number of taxonomic groups, sampling density, and associated data collected concomitantly with the specimens. Hundreds of new species have been discovered as a result of MMS research projects and this collection contains those "type" specimens. In addition to the establishment of a long-term record of invertebrates and reliable maintenance, the Smithsonian provides ready access to these specimens by qualified investigators and distributes excess materials to other qualified museums and teaching collections.

Question 2. Does the MMS do economic analysis of not only the benefits of oil and gas revenue, but also the economic benefits of alternative uses of the OCS when it considers a lease proposal?

Answer. As part of the development process of the 5-Year Oil and Gas Leasing Program, MMS is required to consider a "No Action" alternative. As part of this analysis, MMS does estimate the amount and percentage of alternative sources of energy the economy would have to adopt if the 5-year oil and gas program were not implemented and its proposed lease sales were not held. In other words, energy alternatives are considered at the 5-year programmatic national level rather than for a specific lease or set of leases.

Section 18 of the OCS Lands Act requires the Secretary of the Interior to prepare and maintain a schedule of proposed OCS oil and gas lease sales determined to "best meet the national energy needs for the 5-year period following its approval and re-approval." Preparation and approval of a 5-year oil and gas program must be based on a consideration of principles and factors specified in section 18. In compliance with section 18, the MMS performs a cost-benefit or "net benefits" analysis of the value of all available resources in the proposed final program. Section 18 requires the Secretary consider "other uses of the sea and seabed, including fisheries, navigation or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf." The analysis examines the benefits to society associated with OCS oil and natural gas production commensurate with the accompanying costs.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO
SARAH W. COOKSEY

Federal Financial Support

Question 1. Ms. Cooksey, what is the appropriate level of Federal funding that coastal states need to properly and effectively implement their Coastal Zone Management programs? Do the funding authorization numbers in S. 360 meet those needs?

Answer. The appropriate funding levels for the CZMA should be increased to more closely reflect the substantial national interest and goals set out in the CZMA to protect and enhance the Nation's coastal and ocean resources, as well as to provide incentives through matching-grants for the administration and implementation of CZMA programs. The final report of the U.S. Commission on Ocean Policy noted that funding for CZMA is a "significant concern". Overall funding and the \$2 million cap on state administrative and enhancement grants in effect since 1992 'hampers program implementation, limiting the states' ability to effectively carry out important program functions'

As I noted in my oral remarks and written testimony, the Ocean Commission report documents the significant benefits of well-planned and managed coastal resources and communities, as well as the increasing challenges that are facing coastal management programs. These include increasing population density and development pressure; habitat fragmentation; user conflicts; coastal storms and coastal hazards; travel, tourism, and the growth of secondary homes; mandates to develop coastal nonpoint pollution programs; and emerging demand for use of offshore waters including aquaculture, alternative energy, sand mining, and marine protected areas.

State-based coastal programs provide an essential, integrated programmatic and planning approach to assure that these diverse factors and issues are considered in managing coastal and ocean resources. Current CZMA funding has not kept pace with the demand on administration and implementation of these programs. In addition demand is growing for support of coastal communities to enhance capacity to make the complex growth management decisions necessary to assure that natural and economic resources are preserved and increased for the benefit of this and future generations.

The Ocean Commission report specifically recommended the following increases from current levels for CZM-related programs: \$35 million in the first year, and \$95 million annually thereafter for CZM program grants; \$20 million in the first year and \$60 million annually thereafter for integrated coastal and watershed management; \$35 million in the first year and \$70 million thereafter for coastal land conservation grants. In addition, the Commission noted the need to provide incentives for improved regional, ecosystem-based ocean management that builds on current state ocean management efforts under the CZMA, as well as regional initiatives. The CZMA includes authority to provide grants for development of more comprehensive state ocean management plans and pilots projects to enhance regional ecosystem-based ocean management.

The Commission also recognized the need for increased funding for state-based regional resource assessments and information programs to inform coastal and ocean

management decisions recommending \$9.75 million in year one and \$36.75 million thereafter for regional assessments and information programs. It should be noted that these funds are the minimum that is necessary to assure that the programs, policies, and plans are in place to guide well-planned, prosperous communities and productive coastal ecosystems, and to provide that key coastal and ocean management projects and best practices are implemented. The Ocean Commission also recommends that an Ocean Policy Trust Fund be established beginning at \$500 million annually and increasing to \$1 billion annually in the third year for more comprehensive implementation of state, territorial, and tribal ocean and coastal responsibilities.

The funding recommendations in S. 360 substantially track the recommendations of the U.S. Commission on Ocean Policy. The increases provided—if actually funded—will provide for distribution of grants to all states on an equitable basis thereby relieving the artificial constraints of the “cap” on program administrative and enhancement grants under sections 306 and 309. Clarification of authorities under 306A will encourage the use of more funding for restoration and waterfront revitalization projects. The new funding provided for Coastal Community grants will provide much needed support for projects and activities “on-the-ground” in coastal communities, including funding for improved management of nonpoint pollution.

As recommended in my written testimony, we suggest that the final version of S. 360 be amended to increase funding authorized for grants to the National Estuarine Research Reserve System to \$22 million in the first year increasing thereafter to provide necessary support for system-wide monitoring, coastal training, and other program initiatives. Finally, we recommend that funding be provided under section 308 of the Act for regional pilot projects and under section 310 to support regional resource assessment and information programs. It is our understanding that authorization for coastal land conservation will be provided separately under a proposed Coastal and Estuarine Land Protection Act.

OCS Regulatory Process

Question 2. Are coastal states finding problems with any lack of predictability and clarity in Outer Continental Shelf (OCS) energy development? If so, what may be some reasonable ways to enhance this regulatory clarity from the perspective of coastal states?

Answer. The current CZMA consistency process provides an excellent framework for coordinating offshore Federal activities and permitted activities to assure that they are consistent with applicable state policies. Coordination between and under the CZMA and the Outer Continental Shelf Lands Act has worked well for many years. Several states, including Louisiana and Alaska, have also entered into MOUs with the Minerals Management Service to further clarify and coordinate project review. It is my understanding that these have worked well and should be encouraged in other states and with other agencies as needed.

Amendments to the CZMA consistency regulations, which would further clarify coordination and provide predictability, have inexplicably been held up in internal OMB review for several years. Many of the problems that do arise result from the lack of familiarity of the Federal agencies and permit applicants with the applicable state requirements and consistency process. In addition, the Federal agencies and applicants often fail to consult with the states and to incorporate these policies early enough into the Federal planning process. There seems to be a misperception in some Federal agencies that the CZMA requirements are extraneous, additional state requirements when, in fact, they are part of a Federally approved CZM program and should be included as an integral part of any Federal proposal. Because all applicable, enforceable policies must be identified in a state’s Federally approved CZMA plan, it is not clear what the real concern is with “clarity and predictability.” (In some cases, those objecting may simply disagree with the outcome.) NOAA provides periodic consistency training workshops for other Federal agencies and interested parties. Support for these educational and agency training efforts should be increased.

Concerns about the lack of predictability have been raised primarily with regard to the CZMA consistency appeal time frames. These are beyond control of the states and are managed by the Secretary of Commerce. The vast majority of consistency decisions and the appeal are processed without any significant concerns. The proposed consistency regulations provide a more certain deadline for development of the appeals record and decision by the Secretary. This timeline is designed to assure the availability of full record on appeal for the Secretary and to avoid project delay.

Unlike offshore oil and gas development for which there is a comprehensive management regime under the OCSLA, there is considerable uncertainty regarding proposal for offshore siting renewable energy facilities such as wind farms, as well as

citing of LNG facilities. Currently, there is no Federal-state coordinated management framework to review these and other emerging offshore energy related activities. Many states are concerned that the current permit-by-permit, project-by-project approach to these proposals under section 10 of the Rivers and Harbors Act and/or the Natural Gas Act do not adequately protect state interests and prerogatives, fail to adequately consider regional ecosystem needs or comprehensive consideration of alternatives, and fail to include adequate environmental safeguards. The states would like to work with the Federal agencies and Congress to develop a comprehensive management regime for these and other energy related activities that address these state concerns, set out a more predictable process and that do not preempt current state authority.

OCS Resource Development

Question 3. Ms. Cooksey, how do coastal states view the challenges inherent in developing offshore energy? What can we do to better address the concerns of coastal states?

Answer. I think it is fair to say that states, like the Nation at large, are not of one mind regarding the challenges of developing offshore energy. Those challenges are complex and include numerous policy, technical, legal, economic, cultural, and social questions which can vary state to state. While Louisiana and Texas have long supported offshore energy development, New Jersey, Maine, and Florida do not have the same approach. All those states agree, however, on the importance of state review. There are significant national interests relating to offshore energy production as well as to its transportation and distribution which have disproportionate impact on coastal states. There are also substantial national and state interests and benefits generated by managing productive fisheries, assuring conservation of critical marine resources and supporting travel and tourism and economic development that depends on healthy marine ecosystems that may or may not be compatible with offshore energy development.

As I noted in the answer to the previous question, there is agreement among coastal states that they have significant sovereign and economic interests in the development of offshore energy both within and potentially affecting state waters, and on the Outer Continental Shelf off their shorelines. These principles are well established in the CZMA, OCSLA, and Deepwater Port Act, and should form the baseline for the Federal Government in working with the states to address the current challenges of offshore energy development. In addressing the challenges of offshore energy development, states share the view that there is a need to protect state interests and prerogatives, provide for comprehensive consideration of alternatives, and consideration of environmental safeguards including a management regime. For many years and through several Administrations and Congresses there has been agreement that areas such as those in the Gulf of Mexico would be available for offshore energy development, while other areas would be set aside for moratoria. While not everyone may agree with this framework, it does currently reflect the closest thing we have to a national consensus. As noted above, demand for renewable energy and other energy related purposes are giving rise to new challenges and it is important that Congress and the Administration work closely to develop a common framework for addressing these challenges.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO
SARAH CHASIS

Nonpoint Pollution Control

Question 1. Ms. Chasis, do you have other ideas for incentive-based programs that would help control nonpoint source pollution?

Answer. Yes. We support the following recommendations made by the U.S. Commission on Ocean Policy (USCOP) and the Pew Ocean Commission (POC):

- USDA should align its conservation programs and funding with other programs aimed at reducing nonpoint source pollution, such as those of EPA and NOAA. (USCOP)
- Congress should provide authority under the Clean Water Act and other applicable laws for Federal agencies to establish enforceable management measures for nonpoint sources of pollution and impose financial disincentives related to programs that result in water quality degradation if a state persistently fails to make meaningful progress in meeting water quality standards on its own. (USCOP)
- Congress should link receipt of agricultural and other Federal subsidies to compliance with the Clean Water Act. (POC)

Cooperation in Governance

Question 2. Ms. Chasis, do you have other ideas for incentive-based programs that would help improve interstate and interjurisdictional coordination?

Answer. Yes. It would be very helpful to have incentive-based programs that encourage regional ocean governance frameworks that would:

- Undertake regional ecosystem assessments to guide management decisions;
- Identify priority problems within regions and assess the capacity of existing governance mechanisms to address those problems;
- Develop a strategic plan that takes an adaptive, ecosystem-based management approach to solving the priority problems;
- Identify short and long-term goals, responsibilities for taking actions to achieve those goals, and the necessary resources.
- Representatives of Federal, state, and tribal governments should be encouraged to participate in such regional governance frameworks and to develop and implement the strategic plan using existing legal authorities.
- Federal agencies should be encouraged to identify opportunities to better coordinate and integrate their existing programs or activities to more efficiently and effectively support implementation of such plans.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO
DR. W. DONALD HUDSON, JR., PH.D.

Nonpoint Pollution Control

Question 1. What are the effects of inconsistent and declining Federal funding on Maine's coastal program? How serious of a problem is it?

Answer. Maine has experienced a decline in both CZMA Section 306 base program funds and Section 310 Coastal NonPoint Implementation Funds. For Section 306, a funding reduction of 60K for the fiscal year beginning July 1, 2005 resulted in: (a) the elimination of a contract position that coordinated citizen water quality monitoring programs, (b) cuts in education and outreach project funds, and (c) belt-tightening with respect to "all other" program expenses including professional development and presentation of Maine's work at national conferences. Further cuts in Section 306 funds would necessitate cuts in CZM positions and/or elimination of entire program focus areas.

With respect to Section 310 Coastal Non Point Funds, Maine's program for the fiscal year beginning July 1, 2005 was cut by more than \$400,000. Our coastal nonpoint program is now a skeleton program, staffed by a 0.5 FTE (Full-Time Equivalent) coastal watershed planner, with sufficient funding for only two implementation projects, the Clean Marina program (a partnership with the Maine Marine Trades Association) and the Nonpoint Education for Municipal Officials Program. These cuts resulted in: (a) elimination of our local coastal nonpoint pollution grants and (b) reducing, by 2.2 FTE (at the Maine DEP), municipal technical assistance efforts for stormwater management.

Our budget situation is dire. With Maine's state budget crisis, it is not likely that coastal nonpoint pollution programs will receive additional state funding in the near term. Additional cuts in Federal funding for coastal nonpoint will all but eliminate our considerably decreased efforts. Nonpoint source pollution was cited by both the Pew Commission and the U.S. Ocean Commission as a pervasive source of the majority of pollutants to our coastal zone. Consistent, long-term funding for coastal nonpoint is necessary to: (a) form and build capacity with watershed groups; (b) monitor and survey to find sources of pollution; (c) fix pollution sources; (d) prevent additional NPS by working with towns on land use planning, regulation, enforcement and stormwater management; and (e) educating the public about NPS reduction efforts that they can employ on private lands.

Question 2. My bill, S. 360, would authorize additional funding for nonpoint pollution control programs—would this alleviate the financial problems facing Maine?

Answer. Yes, provided that additional funds for nonpoint were not a "zero sum game" that reduced funding for other CZM programs.

Question 3. What else can we do to support state nonpoint pollution control efforts?

Answer. Additional suggested strategies are as follows:

- Remove the Penalty Provision in the current Section 6217 Program. Removing the penalty provision levels the playing field and permits those States and Ter-

ritories with unapproved programs to begin implementing their management strategies addressing coastal nonpoint source pollution.

- Add more specific language into S. 360 that recognizes the importance of dealing with water quality, specifically nonpoint source pollution as it relates to land use changes and their impacts, with greater emphasis on the impacts of uncontrolled growth.
- Consider implementation contained in the U.S. Commission on Ocean Policy Report specifically:
 - Recommendation 14-7. The U.S. Department of Agriculture (USDA) should align its conservation programs and funding with other programs aimed at reducing nonpoint source pollution, such as those of the U.S. Environmental Protection Agency and the National Oceanic and Atmospheric Administration.
 - Recommendation 14-8. The National Ocean Council (NOC), working with states, should establish reduction of nonpoint source pollution in coastal watersheds as a national goal, with a particular focus on impaired watersheds. The NOC should then set specific, measurable objectives to meet human health- and ecosystem-based water quality standards. The NOC should ensure that all Federal nonpoint source pollution programs are coordinated to attain those objectives.
 - Recommendation 14-9. The National Ocean Council should strengthen efforts to address nonpoint source pollution by evaluating the nonpoint source pollution control programs established under Section 6217 of the Coastal Zone Act Reauthorization Amendments and under Section 319 of the Clean Water Act and making recommendations to Congress for improvements to these programs, including their possible consolidation.
- Consider implementing the recommendations in the Pew Ocean Commission's Report on Sprawl and Coastal Pollution regarding the management of growth as it relates to water quality specifically:
 - Acknowledge the role that Federal infrastructure and Federally funded infrastructure (roads, sewers, housing, government offices) has on local and regional growth patterns. Require that Federal efforts minimize land conversion and provide alternatives to automobile travel.
 - The Transportation Equity Act for the 21st Century (TEA-21) could shift more funding from highway construction to land-use planning that promotes better travel patterns.
 - Incorporate a regional watershed approach into the Total Maximum Daily Load (TMDL) process to minimize the impacts from new development.
 - Coordinate wastewater treatment facility funding with regional watershed planning efforts.
 - In National Environmental Policy Act (NEPA) permitting, an alternatives analysis is required to determine development scenarios that minimize the amount and nature of impacts on natural resources. The NEPA alternatives analysis provision should be rewritten to explicitly require that alternative land-use scenarios be analyzed when evaluating damage to aquatic and terrestrial ecosystems.

Coastal Community Grants Program

Question 4. Could you please tell me what an enhanced Section 309 Community Grant Program would allow Maine to do to plan for a vibrant future for our coastal communities?

Answer. Maine provides only about 2 percent of its CZM resources to communities in the form of local grants. This funding scenario has existed for more than 10 years, due to competing demands for program priorities, reduced state budgets and capped Federal funding. The CZMA was established as a Federal-state-local partnership and an enhanced Section 309 grant program would allow Maine to renew its commitment to coastal towns. Coastal municipal officials and residents are currently overwhelmed at the quantity and timing of new development in their towns and the resultant impacts on traditional uses and culture. Most of the coastal towns in York County have building caps in place, housing prices are at an all time high, coastal access is insufficient and coastal habitats are being compromised. Local officials and citizens need to see local results to feel that the CZM program is relevant to them and that it warrants their support. With a bit of assistance, however, coastal towns like Brunswick, Maine become national leaders (recognized by NOAA) for their exemplary efforts at coastal watershed protection.

Specific areas of demonstrated need at the community level in Maine are waterfront revitalization and development of working waterfront strategies, watershed and coastal pollution plans, harbor management plans, regional open space and habitat protection plans, drinking water supply planning, and hazard mitigation planning.

Question 5. Would the Coastal Community Grants language in my bill allow these community plans and goals to be achieved?

Answer. The language in S. 360 is excellent as drafted. One concern however, is whether a new Coastal Community Grant program in Section 309 would require coastal community grant-funded projects to result in “program changes”, e.g., changes to the states’ approved coastal management programs. Currently, Section 309 funds are required to be focused on those projects that result in actual changes to coastal core laws and other formal aspects of approved coastal management programs. In Maine, we previously offered CZM grants to coastal municipalities to fund the development of comprehensive plans and land use ordinances, but learned that this was an ineligible activity unless Maine revised its entire approved program structure to incorporate local plans into our approved state plan. This might have caused an additional layer of Federal review of local plans and was not considered desirable for Maine.

Another question would be whether another type of Section 309 assessment would be required to qualify for community grant funds. Currently, Section 309 funds are available to states that periodically complete a “309 assessment and strategy” and receive NOAA approval of same. The benefit of having a Coastal Community Grants program would be to be responsive to pressing local and regional needs. It might not always be possible to pre-identify those needs in an upfront strategy. Since 309 assessment and strategies are required to be prepared every five years, it would be difficult to anticipate community needs in the out years. Therefore, flexibility should be a key ingredient as the guidance is developed for a new Section 309A program.

Cooperation in Governance

Question 6. What do you see as the role of the CZMA in fostering or contributing to regional governance of an area such as the Gulf of Maine?

Answer. The CZMA and supporting state statutes in the NOAA approved Coastal Programs provide the statutory basis for regional governance. In the late 1980’s, when the Gulf of Maine Program was conceived, the CZMA had Section 310 that provided funding to the states on a competitive basis for regional initiatives. NOAA provided \$30,000 in seed funds to start-up the Gulf of Maine Program. The absence of “regional initiative” funding has impeded other regions from advancing a regional agenda. It is timely and important for Congress to reinstate a specific regional initiatives section in the CZMA (with a specific appropriation) that both incubates regional efforts consistent with the goals espoused by the U.S. Commission on Ocean Policy and supports national interests in ongoing interstate and international waterbodies. Within this section there should be a requirement of NOAA to foster interaction (e.g., a learning network as suggested in the recent Heinz Center “Innovations by Design”) among regional efforts to accelerate the attainment of the results we seek. NOAA, as the Nation’s lead coastal and ocean agency, needs the capacity to assist and enable regional efforts. Most important would be staff skilled and familiar with regional efforts.

Question 7. What other incentives could we consider to help sustain coastal state participation in this voluntary program?

Answer. It is essential for Congress to create the flexibility with existing key Federal statutes that accommodates regional needs within a Federal framework. The present approach of national standards that apply equally everywhere is administratively simple but fails to appreciate the distinct regional differences. An approach that focuses on outcomes and allows the methods used to accomplish the outcomes to vary will enable this important shift. Federal agencies need to integrate their overlapping and conflicting coastal and ocean mandates within a specific ecosystem context.

Question 8. How else can we encourage coastal states to work with their neighboring states in planning for coastal management?

Answer. Key aspects of this approach include:

- Overcoming historic differences that keep states from working with each other.
- A clear (unvarnished) articulation of the issues that benefit from a regional (interstate) approach AND the costs of pursuing a fragmented/dysfunctional state-by-state approach.

- Technical assistance and training for state coastal managers on regional approaches.
- Seed-funds for projects that address national interests in a regional context.
- Working models of ecosystem-based management that can be adapted to specific areas.

Preserving Working Waterfronts

Question 9. What is the State of Maine doing under the CZMA program to counteract the disappearance of the working waterfront?

Answer. Protecting working access to the coast and enhancing Maine's ports and harbors is a key objective of the Maine Coastal Program. The State Planning Office has joined with others to form the Working Waterfront Coalition (WWC), a coalition of more than 90 organizations, agencies, and individuals dedicated to preserving the working waterfront. The Maine Coastal Program has been heavily involved in supporting the work of the coalition, providing funds for surveys and research on the status and trends in working access, supporting waterfront and harbor planning efforts of coastal towns, and participating in the development of new tax policy and public investment programs.

Through the efforts of the WWC, tremendous strides have been made in raising public awareness of the issue of loss of access and in developing political support for new policy measures. With support from the Governor's Office, the Maine Legislature is considering the creation of a fishing access program supported by public bonding funds to purchase ownership rights or easements on lands and facilities crucial to assuring working access to the sea.

Question 10. What possible amendments to the CZMA would help the State combat this problem?

Answer. Recently the question of a potential Federal role in protecting working waterfronts has been raised and discussed by the Working Waterfront Coalition. The WWC has already met with Senator Collin's staff and received an inquiry from Representative Michaud's office on this topic. From these discussions a number of opportunities have been identified:

- Federal funding would be very helpful to combine with state funds for investments in securing fishing access rights and facilities;
- opportunities exist to incorporate new or amended program elements into the re-authorization of the CZMA or the Magnuson-Stevens Act; and
- a Fishing Legacy Program, modeled on the Forest Legacy Program, would be an appropriate vehicle to link state level efforts with Federal level support. Additional program or agency support is needed to carry out a state legacy program.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO
THOMAS KITSOS, PH.D.

Ocean Observations

Question 1. I am pleased to have been a cosponsor of the Ocean and Coastal Observation System Act, recently reported by this Committee. New Jersey hosts several key research facilities that will become part of the backbone of this ocean observing system, such as LEO-15, an underwater research lab. How will NOAA ensure that these pre-existing facilities remain operational, as they are now funded by individual grants to researchers?

Answer. NOAA envisions working through an approved IOOS Regional Association certification process for including sub-regional observing networks and their capabilities into an integrated system. Pre-existing facilities such as LEO-15 and the underwater research lab would be important components of a certified Regional Association. In addition, the Jacques Cousteau Reserve in New Jersey participates in the System-Wide Monitoring Program (SWMP) of the National Estuarine Research Reserve System, which is also a national backbone component of IOOS. Annual funding through the reserve system sustains this monitoring program. Provided annual appropriations for the reserve system continue at the level of the President's Request, the operational infrastructure of SWMP will be maintained at the Jacques Cousteau Reserve.

Funding Equity

Question 2. New Jersey has been receiving \$2 million in Section 306 grants, which is the cap, for many years. As most states are also at the cap, the ultimate effect

is that population and coastline is essentially no longer taken into consideration. However, coastal populations are growing faster than inland populations. How do you propose that states take into account increasing coastal populations, increased coastal development, and increased use of coastal resources without adjusting the funding allocations or providing more funds?

Answer. We agree the cap on Section 306 funding is an issue. We are also committed to the equitable distribution of funds. The underlying allocation formula, as described in the CZMA and regulations, provides a workable system for allocating funds, and does not require revision. NOAA's ability to provide for the equitable distribution of funds to coastal states has been greatly constrained by the \$2,000,000 maximum per state cap on appropriated Section 306 funds, which has been imposed through annual appropriations acts. From 1992 to 2002, the total appropriation for Section 306/309 grants has doubled. During the same time period, the cap placed on Section 306 funding in the annual appropriations acts remained fixed at \$2,000,000. Beginning in FY 2003, the appropriations language was modified to allow Section 306 grants to exceed \$2,000,000 if "funds provided for "Coastal Zone Management Grants" exceed funds provided in the previous fiscal year. Provided further, that if funds provided for Coastal Zone Management Grants exceed funds provided in the previous fiscal year, then no State shall receive more than 5 percent or less than 1 percent of the additional funds." This new language has yet to be applied in practice, as appropriations for Coastal Zone Management Grants have not increased from one year to the next since FY 2003. The best way to address the imbalances that developed over the past decade is to eliminate the cap as proposed by the President's Budget in FY 2006 and prior years.

NOAA is also committed to providing non-monetary assistance to help states manage the increasing pressures on their coastal areas. NOAA supports, and will continue to support, state management efforts through research on coastal issues, the provision of training and technical assistance, technical products, and management assistance.

National Estuarine Research Reserves

Question 3. One of the brightest parts of the Coastal Zone Management Act (CZMA) is the Estuarine Research Reserves, which conduct education, scientific research, and policy training. My State of New Jersey is fortunate to have the Jacques Cousteau National Estuarine Research Reserve. Will NOAA create new reserves even if no additional funding is provided?

Answer. NOAA will work with states to designate new reserves only when additional funding is provided. About 10 years ago, NOAA instituted a policy of not accepting nominations for new reserves until the budget for the reserve system was at the level needed to operate the program effectively. Prior to that time, NOAA designated new reserves despite a lack of new resources, which had the negative effect of reducing funding for existing reserves. In 2001, with an increase in funding for the reserve system, NOAA decided to accept nominations for new reserves, consistent with the following policy:

- NOAA is committed to completion of a system of reserves representing the diverse biogeographic and typological character of the estuaries of the United States and estuarine-like systems of the Great Lakes, consistent with available resources.
- The first priority for use of NOAA funding is to support the operation of designated reserves, system-wide projects benefitting designated reserves and development of reserves in states that currently have a formal commitment from NOAA to proceed with the designation process.
- Additional reserves (beyond the existing 26 designated and two proposed reserves) will be considered by NOAA only when: (a) sufficient funds are available to provide reserves continuing operations support after designation, and (b) sufficient Federal staff and resources are available to adequately support new designation and operation activities.
- Priorities for accepting new nominations are:
 - First priority will be given to nominations that incorporate both a biogeographic region or sub-region and an estuary type not represented by existing or developing reserves (see NOAA regulations at 15 CFR 921).
 - Second priority will be given to nominations that incorporate either a biogeographic subregion or an estuary type not represented by existing or developing reserves.

NOAA has been working with Texas on the designation of a new reserve. We anticipate designation of the proposed Mission Aransas Estuary Reserve in Texas by

the end of 2005. The President's request for FY 2006 includes an increase of \$575,000 for the new Texas Reserve and funding and an FTE for staff in NOAA's Estuarine Reserves Division to work with Texas. NOAA has received requests from the Governors of Wisconsin and Connecticut to begin the reserve designation process. At this time, funding is not currently available to consider reserve site selection in these states.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. FRANK R. LAUTENBERG TO
DR. WALTER D. CRUICKSHANK

Consistency Review: Alternative Energy

Question. During the hearing, you mentioned that the Secretary of Interior should be given additional authority in Federal consistency appeals at least in part because the Nation lacks an overarching governance structure for outer continental shelf energy projects. You indicated that the suite of energy projects includes renewable energy projects in addition to oil and gas energy projects. In your opinion, if the Secretary of Interior did receive this new authority, would renewable energy appeals be a significant proportion of the total energy appeals the Department of Interior would review?

Answer. The Department of the Interior and the Department of Commerce have worked diligently on communicating and comprehending each other's concerns over Federal consistency and how the existing Federal regulatory regime manages offshore and coastal activities. Dr. Cruickshank did not comment on the issue of increased authority for the Secretary of the Interior and the Department of the Interior is not seeking additional authority in Federal consistency appeals.

The Administration is seeking authority for the Secretary of the Interior to permit alternative energy and energy-related activities on the Outer Continental Shelf (OCS). With this new authority, all OCS alternative energy projects would be subject to Coastal Zone Management Act (CZMA) review, as are all oil and gas activities presently. Affected States would review these projects for consistency with State CZM plans and any appeal of a State consistency decision would still go to the Secretary of Commerce.

We believe it is speculative as to what percentage of future energy-related appeals will be for renewable energy projects. Given the small percentage overall of energy projects that are objected to by the States and reviewed by the Secretary of Commerce, the Department of the Interior would expect the percentage of appeals for renewable energy projects to also be low. The States presently review many types of energy projects under the CZMA such as OCS oil and gas projects, gas pipelines, onshore and offshore liquefied natural gas terminals, nuclear power plants and hydroelectric plants. The NOAA records indicate that of the thousands of energy projects reviewed by States under the CZMA since 1978, there have been only 20 appeals to the Secretary of Commerce. The Department of the Interior will of course be available to provide Commerce with any assistance required to develop the Commerce Secretary's decision record for CZMA appeals relating to energy and energy related activities on the Outer Continental Shelf.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO
SARAH W. COOKSEY

Streamlining Appeals

Question 1. The potential for combining Departmental review of appeals, rather than each permitting process occurring separately, was discussed at the hearing. In your opinion, are there potential drawbacks to this proposal for the States?

Answer. Fundamentally states want to assure that the appeals process is fair to both sides, consistent with the principles of the Administrative Procedures Act, and preserves the discretion of the Secretary of Commerce include such information for the record on appeal as needed to address the national interest standard set out in the CZMA. Combining review of appeals and relying on the record developed by another agency such as FERC or MMS for their review purposes under other statutes could result in unnecessarily limiting the authority of the Secretary. The ultimate result could be more costly and time consuming litigation over the Secretary's decisions rather than expediting final resolution of disputes.

Integrating Coastal and Watershed Management

Question 2. What tools will states use to work towards integrating coastal and watershed management for a more regional approach to coastal problems? Are there any additional tools that states need for this effort?

Answer. Under S. 360, states would have clearer authority and additional resources to address watershed issues affecting the coastal zone. States would have the flexibility and increased resources needed to make use of current tools under the CZMA such as special area management plans to integrate watershed, develop plans to protect critical coastal resources and areas of particular concern. The new coastal communities grants (309A) also provide much needed assistance for states that will be targeted to work at the community level to integrate watershed, coastal, and growth management planning to more effectively address land use and nonpoint pollution among other issues. The majority of states also have approved or conditionally approved coastal nonpoint pollution programs, many of which extend up the watershed. The funding that is available to the states under S. 360 will be available to states to reduce the cumulative and secondary effects of polluted runoff on the coastal zone.

The U.S. Ocean Action Plan proposes that there be an interagency effort led by EPA and NOAA to support community-based workshops that improve integration of coastal and watershed management efforts. In addition to these targeted workshops, Congress should consider providing funding through CZMA section 308 to provide for regional pilot projects and ongoing support for innovative state-based efforts that integrate coastal and watershed management. As noted above the U.S. Commission on Ocean Policy specifically supported a minimum of \$20 million to support improved coastal watershed management. A more comprehensive look should be taken on how to use Department of Agriculture conservation funding and Department of Transportation Highway mitigation funds as an effective incentive for coastal watershed management initiatives.

Education and the Estuarine Research Reserve System

Question 3. I am very interested in improving ocean and coastal literacy in our country, and think the National Estuarine Research Reserve system can make a great contribution. Does the Reserve System plan to focus on bringing underrepresented groups into marine science or policy?

Answer. NOAA's National Estuarine Research Reserve System (NERRS) is committed to bringing underrepresented groups into ocean and coastal science and policy. The NERRS has played a role in engaging underrepresented groups through the Environmental Cooperative Science Center, the NERRS Graduate Research Fellowship program, and K-12 and community education programs.

The Environmental Cooperative Science Center (ECSC) was established in 2000 through a cooperative agreement between NOAA and Florida A&M University, in collaboration with Delaware State University, Jackson State University, Morgan State University, South Carolina State University, and the University of Miami Rosenstiel School. The ECSC member institutions are all Minority Serving Institutions. The ECSC addresses ecological and management issues at five National Estuarine Research Reserves and the Florida Keys National Marine Sanctuary. Partner National Estuarine Research Reserves include Grand Bay Reserve (Mississippi), Apalachicola Reserve (Florida), ACE Basin Reserve (South Carolina), Delaware Reserve, and the Chesapeake Bay Reserve (Maryland). The participating reserves are actively engaged with supporting undergraduate and graduate students from these Minority Serving Institutions in their field and laboratory research and often serve as research mentors for student research program development. On average, each reserve hosts between 15-20 research students annually, either through research projects associated with academic coursework or on an individual researcher basis through graduate programs.

The NERRS Graduate Research Fellowship program provides master's degree students and Ph.D. candidates with an opportunity to conduct research of local and national significance, within a National Estuarine Research Reserve, that focuses on enhancing coastal zone management. Students from Minority Serving Institutions have been encouraged to apply to this program. The NERRS are committed to promoting diversity within the Graduate Research Fellowship program and are sending information about the program to professors and directors of marine programs at Minority Serving Institutions.

Some of the National Estuarine Research Reserves have played a particularly strong role in helping to bring underrepresented groups into ocean and coastal science and policy through their K-12 and community education programs. The Jacques Cousteau Reserve, in New Jersey, has partnered with the Mid-Atlantic Center for Ocean Sciences Education Excellence to develop science education pro-

grams that promote participation from underrepresented groups. These programs employ criteria to recruit minority educators into science enrichment programs, and capitalize on minority scientists as mentors and role models for our youth. Minority mentors have been particularly effective in advancing ocean and coastal literacy through classroom-based applications and activities.

The Tijuana Reserve in California has developed partnerships, programs, and materials specifically targeting underrepresented groups. Through a partnership with San Diego State University and a local elementary school, the Tijuana Reserve has provided opportunities for Hispanic students to visit the Tijuana Estuary. In addition, the reserve launched a high school summer internship that targets Hispanic students.

The Elkhorn Slough Reserve has provided outreach into the Hispanic communities along the central California coast through the Multicultural Education on Resource Issues Threatening Oceans program (MERITO), a collaborative effort with State Parks and the Monterey Bay National Marine Sanctuary. As part of this program, students learn about research and monitoring projects at the reserve. They also visit other wetland systems, local beach and dune restoration sites, municipal wastewater treatment plants, local water supply facilities, and a municipal recycling center. Through MERITO, the Elkhorn Slough Reserve developed a bilingual watershed curriculum that is being used in after-school programs. The reserve has also developed a number of partnerships to encourage underrepresented groups, as well as inner city youth, to seek ocean- and coastal-related careers.

The NERRS hopes to play a stronger role in the future in fully engaging underrepresented groups, particularly if funding levels for NERRS education activities increased. With additional funding, the NERRS could increase Graduate Research Fellowship opportunities and provide additional programs and products aimed at bringing underrepresented groups into ocean and coastal science and policy.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. FRANK R. LAUTENBERG TO
SARAH CHASIS

Streamlining the Consistency Appeals Process

Question. The potential for combining Departmental review of appeals, rather than each permitting process occurring separately, was discussed at the hearing. In your opinion, are there potential drawbacks to this proposal for the States?

Answer. Yes. If the appeals process is streamlined as the industry has requested, there is a danger that the states and the Secretary will be missing key information with which to evaluate (in the case of a state) or decide (in the case of the Secretary) the extent of environmental harm caused by a proposed project and, therefore, whether it is consistent with the CZMA. This is because the "streamlining" provision advocated by the oil and gas industry (and included in the Senate Energy bill) would not allow the timeline for Secretarial appeals to be extended, where necessary, to include the final Environmental Impact Statement or final Biological Opinion under the Endangered Species Act on the project. Since a project may not proceed without these final documents, there is no reason not to extend the appeal timeline to allow consideration of these important and highly relevant documents. Having the Final EIS and Biological Opinion is crucial to the Secretary's evaluation of an appeal from a state's objection to a project since the Secretary is supposed to be weighing the environmental impacts of the project against the national interests served by the project. Clearly these environmental documents are crucial to that decision. The streamlining process could thus work to the disadvantage of the states, the Secretary and the coastal environment.

THE NATURE CONSERVANCY
Arlington, VA, June 10, 2005

Hon. TED STEVENS,
Chairman,
Hon. DANIEL K. INOUE,
Ranking Member,
Hon. OLYMPIA J. SNOWE,
Hon. MARIA CANTWELL,
Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Dear Senators,

On behalf of The Nature Conservancy, I am writing to urge the Committee to report legislation to reauthorize the Coastal Zone Management Act (CZMA). Both the President's *U.S. Ocean Action Plan* and the final report of the *U.S. Commission on Ocean Policy* recommended the reauthorization of the CZMA and highlight its importance in ensuring economically vibrant and ecologically sustainable coastal and ocean resources.

The final report of the Ocean Commission recommended that CZMA reauthorization strengthen the planning and coordination capabilities of coastal states to address watershed and ocean planning; increase Federal financial, technical and institutional support for conservation and restoration of coastal habitats; and support regional and state research and information programs that support coastal resource assessments. This is a good start.

The Conservancy supports movement toward an ecosystem approach to management of coastal and marine resources as the best way to conserve biological diversity. We see the partnership established between the states and the Federal Government under the Coastal Zone Management Act as important to implementing this approach to management, but stronger measures are needed:

- *Resources available to states under the CZMA are limited, particularly for many activities related to on-the-ground conservation.* Authorization for the Coastal and Estuarine Land Conservation Program and increased resources to support the stewardship portion of the NERRS program should be included.
- *Improved coordination across jurisdictions is essential to manage on an ecosystem basis.* The Act should foster partnerships among states and within states that address upstream issues impacting coastal and nearshore resources.
- *Most CZM programs lack policies and strategies for proactive management for the full extent of state waters.* Guidelines should encourage states to engage in comprehensive planning for all state waters in coordination with adjacent states and relevant Federal agencies.
- *Guidelines governing state improvement grants are restrictive and may unfortunately tend to limit states' ability to do the work necessary to move toward ecosystem-based management.* Provisions of the CZMA governing grants to states should be modified to make it a more flexible, useful tool to stimulate innovative approaches to adaptive, ecosystem-based management as called for by the Commission and the U.S. Ocean Action Plan.
- *The paucity of data to inform management is a perpetual challenge for coastal and marine resource managers.* NOAA should seek to stimulate increased management-oriented research to support states as they move towards ecosystem-based management.

The Conservancy would like to work with you in the coming months on any necessary changes to S. 360 and to ensure its passage during the 109th Congress. Thank you for your efforts to enact this important legislation.

Sincerely,

LYNNE ZEITLIN HALE,
Director, Global Marine Initiative

SCHOOL OF MARINE AFFAIRS
Seattle, WA, May 23, 2005

Hon. TED STEVENS,
 Chairman,
 Hon. DANIEL K. INOUE,
 Ranking Member,
 Senate Committee on Commerce, Science, and Transportation,
 Washington, DC.

RE: S. 360 REAUTHORIZATION OF THE CZM ACT

Dear Senators Stevens and Inouye:

I am writing to urge that you favorably consider S. 360, Reauthorization of the Coastal Zone Management Act. As you know, this law was first adopted by Congress in 1972, has been reauthorized and amended at least six times since then, and has become an important part of the fabric of our environmental and resource management laws of the country. It is time to reauthorize the CZMA again in light of the findings and new directions provided by the U.S. Commission on Ocean Policy (USCOP).

I have actively studied the development and implementation of the CZMA since 1970. Between 1970 and 1975 I represented Louisiana on the Coastal States Organization when the law was first being debated in the Congress and in the early stages of implementation. I founded the Coastal Management journal in 1972 and published papers on all aspects of the implementation of the law through its many phases. In 1997 I led a group of six researchers investigating the effectiveness of the CZMA in meeting the goals set for it—and found that the CZM programs were effectively implementing the Act's objectives.

Most recently I served as one of the 16 Commissioners on the U.S. Commission on Ocean Policy. As you are aware the Commission studied all aspects of the Nation's ocean and coastal policies. The coastal zone received a great deal of our attention—in fact, Part IV, consisting of chapters 9–13, deal with issues specific to the coastal zone—population growth, hazards, habitat, sediment and transportation. However, throughout the report the role of the states is recognized as crucial to the implementation of a great many of our recommendations.

The CZM programs are the most effective governmental tool available within the states for helping to achieve many of the recommendations of the USCOP. For this reason it is important that the law be reauthorized and appropriately amended to allow an effective state role in national ocean policy. Here are some examples taken from the USCOP report of how the states can assist meeting our national ocean policy and management needs:

State-level socio-economic characteristics must be produced and kept up-to-date to determine the value of coastal regions (USCOP Ch. 1 and 25).

States must take the lead in considering voluntary, regional processes for ocean issues, and in developing regional ocean information programs (USCOP Ch. 5).

States must interact closely with Federal agencies in formulating a coordinated offshore management regime (USCOP Ch. 6 and 9) that includes consideration of new uses such as marine aquaculture (USCOP Ch. 22) and wind energy (USCOP Ch. 24).

State coastal programs must consider accelerating pressures due to population growth, and incorporate watershed management into program activities (USCOP Ch. 9).

States must collect better data on hazard risks and losses, and upgrade mitigation planning (USCOP Ch. 10).

State coastal programs must set goals for habitat restoration and undertake coastal and estuarine land conservation with Federal funding assistance (USCOP Ch. 11).

States must be active in the shift toward comprehensive, watershed and ecosystem-based sediment management regimes (USCOP Ch. 12).

State coastal programs are central in the efforts to improve response to non-point sources of pollution (USCOP Ch. 14).

States are key players in the effort to reduce introduction of aquatic invasive species (USCOP Ch. 17).

States should receive support for state-level coral reef management (USCOP Ch. 21).

States are critical partners in emerging integrated ocean observing systems and can help insure useful information products (USCOP Ch. 26).

To achieve these goals the state coastal management programs need to be maintained and their level of funding increased. These programs have proven to be flexible and adaptive over the years, capable of responding to new issues that arise. In the 1970s the coastal programs were used to experiment with coastal energy impact assistance. In the 1980s they were used to establish waterfront restoration programs. In the 1980s and 1990s they have been effective in protecting natural resources such as wetlands and beaches. In the 1990s they were used to improve management of coastal non-point pollution sources. I believe they can be extremely helpful in our current efforts to focus on coastal watersheds and offshore zones—the new areas of interest and attention.

Thank you very much for your consideration.

Sincerely,

MARC J. HERSHMAN,
*Professor of Marine Affairs, Adjunct Professor of Law, University of Washington;
 Commissioner, U.S. Commission on Ocean Policy (2001–2004).*

cc: Senators Olympia J. Snowe and Maria Cantwell, Tony McDonald, Coastal States Organization, and Admiral James Watkins, Chairman, U.S. Commission on Ocean Policy (2001–2004).

AMERICAN PLANNING ASSOCIATION
Washington DC, May 24, 2005

Hon. TED STEVENS,
 Chairman,

Hon. DANIEL K. INOUE,
 Ranking Member,

Hon. OLYMPIA J. SNOWE,

Hon. MARIA CANTWELL,

Senate Committee on Commerce, Science, and Transportation,
 Washington, DC.

Dear Senators,

On behalf of the American Planning Association (APA), I am writing to urge the Committee to support reauthorization of the Coastal Zone Management Act (CZMA), S. 360. APA applauds your leadership in bringing this important issue before the Senate Commerce Committee for a hearing. Both the President's *U.S. Ocean Action Plan* and the *U.S. Commission on Ocean Policy's Final Report* recommended the reauthorization of CZMA and highlighted its importance in ensuring economically vibrant and ecologically sustainable coastal and ocean resources.

CZMA reauthorization would strengthen the planning and coordination capabilities of coastal states to address watershed and ocean planning. The legislation would increase the ability of state and local officials to improve ocean resources and ecosystems by providing technical, institutional and financial support for better planning and management of coastal development and land use. APA strongly supports provisions in S. 360 to create a Coastal Community Program. These grants would help implement locally-devised strategies for improving coastal communities, benefiting local economies and the environment.

APA represents more than 37,000 professional planners, local officials, and engaged citizens committed to good planning as a tool for creating communities of last value. Coastal planning and water policy issues are among APA's top legislative priorities for the 109th Congress. As such, we strongly endorse S. 360 and pledge to work with you in advancing this important legislation and other key elements of ocean policy reform.

Thank you for your leadership on behalf of coastal communities and providing a forum for discussion of CZMA reauthorization.

Sincerely,

W. PAUL FARMER,
Executive Director and CEO